

LIST OF PUBLIC COMMENTS RECEIVED IN RESPONSE TO  
STAFF PROPOSED OPTIONS DOCUMENT

Distributed May 20, 2004

Compiled July 20, 2004

1. Anonymous, received June 22.
2. Patricia Gunderson, June 28.
3. Thomas Waters, Friends of the Snake River, July 2.
4. Donald DeVeau, Three Rivers Park District, July 6.
5. Bill Ylatupa, Silver Trail Riders, July 12.
6. Jane Sweeney, July 13.
7. Debbie Ortman, July 14
8. Jeff Brown, Minnesotans for Responsible Recreation, July 14.
9. Lynn Moratzka, Dakota County Office of Planning
10. Sean Wherley, Friends of the Boundary Waters Wilderness, July 16.
11. Kim Johnson, July 18.
12. Gwen Myers & Sally Sawyer, League of Women Voters of MN, July 18.
13. John Hunt, July 19.
14. Dustin Young, All-Terrain Vehicle Assn. of MN (ATVAM), July 19.
15. Dennis Thompson, Department of Natural Resources, July 19.
16. Lois Norgaard, American Lands Alliance, July 19.
17. Jerold Bahls, Audubon Chapter of Minneapolis, July 19.
18. Matthew Norton, MN Center for Environmental Advocacy, July 19.
19. Mason Myers, July 19.
20. Karen Umphress, July 19



May 20, 2004

TO: PERSONS INTERESTED IN RECREATIONAL TRAIL MANDATORY  
AND EXEMPTION CATEGORY RULEMAKING

FROM: Gregg Downing  
EQB Environmental Review program staff

SUBJECT: PUBLIC REVIEW OF DRAFT CATEGORY OPTIONS

The EQB staff has developed the accompanying preliminary options for possible mandatory EAW, EIS, and Exemption categories for recreational trails. The ideas for these options came from the public comments received in response to EQB's solicitation of ideas published in July 2003. These preliminary category options were presented to the EQB Board at its May meeting, and now are available for public review.

**The EQB will accept comments on these options until July 19, 2004.**

EQB will consider all comments received when drafting a formal rule proposal later this summer. The EQB staff anticipates that it will ask the EQB Board to authorize formal rulemaking early next fall. The Legislature directed the EQB to adopt rules for recreational trail categories by January 2005.

Please submit comments or direct any questions to:

Gregg Downing  
Environmental Quality Board  
300 Centennial Bldg., 658 Cedar Street  
St. Paul, MN 55155

Fax: 651/296-3698

E-mail: [gregg.downing@state.mn.us](mailto:gregg.downing@state.mn.us)

Phone: 651/205-4660

**FOR PUBLIC REVIEW**

**EQB STAFF PROPOSED OPTIONS FOR  
RECREATIONAL TRAIL MANDATORY & EXEMPTION CATEGORIES**

**Mandatory EAW Proposals**

**A. Options applying to construction of new or expanded trails other than winter-only trails:**

- Option 1. All recreational trails (regardless of use, length, location or ownership), except those exempted.
- Option 2. All recreational trails with at least 10 miles\* of new alignment on forested or naturally vegetated land.
- Option 3. All recreational trails with at least 10 miles\* of new alignment on forested or naturally vegetated *public* land.
- Option 4. All recreational trails for motorized uses (i.e., non-motorized trails not included), except those exempted.

\* Miles could refer to continuous or cumulative stretches of trail.

**B. Options applying to construction or expansion of winter-only trails:**

- Option 1. Trails with at least 20 miles\* of new alignment on forested or naturally vegetated land.
- Option 2. Trails with at least 20 miles\* of new alignment on forested or naturally vegetated *public* land.
- Option 3. No separate category for winter only trails – whatever option chosen under A above would apply to winter trails also.

\* Miles could refer to continuous or cumulative stretches of trail.

**C. Options applying to designation\* of a new use on an existing trail:**

- Option 1. Designation of a new motorized use regardless of length (except as exempted)
- Option 2. Designation of a new motorized use of at least 25 miles.
- Option 3. Designation of a more intensive use on at least 25 miles of trail.
- Option 4. Designation of a more intensive use on at least 25 miles of trail on *public* lands.
- Option 5. Any of options 1 -4, not including designation of a winter-only use.

\*"Designation" refers to an affirmative act by a unit of government with jurisdiction over a trail to approve or allow specific types of use on the trail; it includes conversion to, or addition of, a new use.

(EAW category options continued on next page)

**D. Options applying to construction or expansion of an off-highway vehicle recreation area (OHVRA):**

- Option 1. Construction/expansion of an OHVRA of/by 80 or more acres of

Neither

forested or naturally vegetated public land.

- Option 2. Construction/expansion of an OHVRA of/by 80 or more acres of forested or naturally vegetated public land, or an OHVRA of 640 or more acres regardless of the nature or ownership of the land.

### **Mandatory EIS Proposals**

- Option 1. No mandatory EISs for any recreational trail projects.

- Option 2. Construction of a new or expanded trail for motorized use, except winter-only use, with at least 35 miles of new alignment on forested or naturally vegetated public land that: (1) crosses a trout stream, public water or public wetland; (2) passes within 100 feet of any combination of five or more trout streams, public waters or public wetlands; or (3) would have at least 3 miles of alignment within a township that currently has no OHV trails.

- Option 3. Construction of an OHVRA on 640 or more acres of forested or naturally vegetated public land.

### **Exemption Proposals**

#### **A. Options applying to all types of recreational trails:**

- Option 1. The rerouting of less than one continuous mile of trail due to safety considerations, or to avoid sensitive areas.
- Option 2. Reconstruction, rehabilitation or maintenance of existing trails within the existing corridor involving no changes in use.
- Option 3. Designation of minor, temporary or seasonal trails with no significant or lasting effects.
- Option 4. See Option 2 under C below.

#### **B. Options applying only to winter-only trails (in addition to ones selected in A):**

- Option 1. Construction of less than one continuous mile of winter-only trail.
- Option 2. Construction or expansion of a winter-only trail across agricultural land.
- Option 3. Designation (including conversion) of an existing trail for winter-only use.

#### **C. Options applying only to motorized uses:**

- Option 1. Designation of existing State Forest roads for motorized recreational vehicle use (in addition to those selected in A & B).
- Option 2. No exemptions for construction, expansion, or designation/conversion of motorized uses, except winter-only use exemptions selected under B.

**Gregg Downing**

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**From:** Patricia Gunderson [pgunder@us.ibm.com]  
**Sent:** Monday, June 28, 2004 12:17 AM  
**To:** Gregg.Downing@state.mn.us  
**Subject:** OPTIONS FOR RECREATIONAL TRAIL

Thank you for protecting our open areas by restricting motorized vehicles. My responses are below.

**ENVIRONMENTAL QUALITY BOARD STAFF PROPOSED OPTIONS FOR RECREATIONAL TRAIL MANDATORY & EXEMPTION CATEGORIES**

**Mandatory Environmental Assessment Worksheet (EAW) Proposals (When should an EAW be required?)**

A. Options applying to construction of new or expanded trails other than winter-only trails:

Option 1. All recreational trails (regardless of use, length, location or ownership), except those exempted.

Option 2. All recreational trails with at least 10 miles\* of new alignment on forested or naturally vegetated land.

Option 3. All recreational trails with at least 10 miles\* of new alignment on forested or naturally vegetated public land.

**XX Option 4. All recreational trails for motorized uses (i.e., non-motorized trails not included), except those exempted.**

\* Miles could refer to continuous or cumulative stretches of trail.

B. Options applying to construction or expansion of winter-only trails:

Option 1. Trails with at least 20 miles\* of new alignment on forested or naturally vegetated land.

Option 2. Trails with at least 20 miles\* of new alignment on forested or naturally vegetated public land.

**XX Option 3. No separate category for winter only trails - whatever option chosen under A above would apply to winter trails also.**

\* Miles could refer to continuous or cumulative stretches of trail.

C. Options applying to designation\* of a new use on an existing trail:

**XX Option 1. Designation of a new motorized use regardless of length (except as exempted)**

Option 2. Designation of a new motorized use of at least 25 miles.

Option 3. Designation of a more intensive use on at least 25 miles of trail.

Option 4. Designation of a more intensive use on at least 25 miles of trail on public lands.

Option 5. Any of options 1 -4, not including designation of a winter- only use.

\*\*"Designation" refers to an affirmative act by a unit of government with jurisdiction over a trail to approve or allow specific types of use on the trail; it includes conversion to, or addition of, a new use.

D. Options applying to construction or expansion of an off-highway vehicle recreation area (OHVRA):

Option 1. Construction/expansion of an OHVRA of/by 80 or more acres of forested or naturally vegetated public land

**XX Option 2. Construction/expansion of an OHVRA of/by 80 or more acres of forested or naturally vegetated public land, or an OHVRA of 640 or more acres regardless of the nature or ownership of the land.**

**Mandatory Environmental Impact Statement (EIS) Proposals (When should an EIS be required? Much more extensive than an EAW.)**

**I don't know enough about what EIS will provide vs EAW to answer this**

Option 1. No mandatory EISs for any recreational trail projects.

Option 2. Construction of a new or expanded trail for motorized use, except winter- only use, with at least 35 miles of new alignment on forested or naturally vegetated public land that:

- (1) crosses a trout stream, public water or public wetland;
- (2) passes within 100 feet of any combination of five or more trout streams, public waters or public wetlands; or
- (3) would have at least 3 miles of alignment within a township that currently has no OHV trails.

Option 3. Construction of an OHVRA on 640 or more acres of forested or naturally vegetated public land.

Exemption Proposals (When is no review required?)

A. Options applying to all types of recreational trails:

Option 1. The rerouting of less than one continuous mile of trail due to safety considerations, or to avoid sensitive areas.

**xx Option 2. Reconstruction, rehabilitation or maintenance of existing trails within the existing corridor involving no changes in use.**

Option 3. Designation of minor, temporary or seasonal trails with no significant or lasting effects.

Option 4. See Option 2 under C below.

B. Options applying only to winter-only trails (in addition to ones selected in A):

Option 1. Construction of less than one continuous mile of winter-only trail.

Option 2. Construction or expansion of a winter-only trail across agricultural land.

**xx Option 3. Designation (including conversion) of an existing trail for winter-only use.**

C. Options applying only to motorized uses:

Option 1. Designation of existing State Forest roads for motorized recreational vehicle use (in addition to those selected in A & B).

**xx Option 2. No exemptions for construction, expansion, or designation/conversion of motorized uses, except winter-only use exemptions selected under B.**

Thank You

Tricia

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Patricia Gunderson  
390 Harriet Ave.  
St. Paul, MN 55126  
pgunder@us.ibm.com

# Friends of the Snake River

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THOMAS F. WATERS, PRESIDENT

2754 137<sup>TH</sup> LN NW  
763-862-6283

ANDOVER MN 55304-3000  
tomfwaters@tcinternet.net

July 2, 2004

Gregg Downing  
Environmental Quality Board  
300 Centennial Building  
658 Cedar Street  
St Paul MN 55155

Dear Mr Downing:

Thank you for making the proposed MEQB rule changes available to the Public for comment. This program is a very welcome change from past state proposals on recreational trails, for which in large part environmental review and meaningful public participation were avoided. The provision of Options that consider possibilities for rules on all types of recreational trails is particularly welcome.

A specific concern of the Friends of the Snake River apply to environmental conditions of this river and its watershed that may be affected by recreational trails. Additionally, however, our concerns in a broader, statewide scope is no less genuine for the integrity of all of our state's lands and waters, public and private, and their natural values.

As President of this organization, I bring to it particular experience and expertise in the ecology of streams and rivers, the main scientific subject I pursued while Professor of Fisheries and Wildlife at the University of Minnesota.

Sole past few years have experienced the degradation of Minnesota's natural resources by the disrespectful, reckless, and lawless use of motorized recreational vehicles, which has been immense and immeasurable. We all know it by now. This situation was compounded by elements of the DNR administration that seemed to prejudice its actions in favor of the motorized recreation community, at the expense of environmental review and involvement of citizens. Thus, it is of particular benefit to have this opportunity to participate in the process of trails management.

In the following, I presume that "winter-only" categories refer to snowmobiles. I believe the potential damage from snowmobiles has much less of an impact on the environment than off-highway vehicles (OHVs). However, many problems still exist with "winter-use," such as noise, exhaust, trespass, excessive wear down to mineral soils and consequent erosion, interference with quiet recreational uses, and a growing use of all-terrain vehicles (ATVs) in the winter, especially with light snow cover.

Specific comments on the Options:

#### **Mandatory EAW Proposals**

A. Option 4 is most desirable, because motorized use of any category has great potential for damage and interference to other users. I think the specification of number of miles is unwise, because it is arbitrary and we do not have the ability to judge the environmental effects of these numbers. The size or length of specific trail proposals are factors that should be included in an EAW or EIS procedure.

B. Option 3 should be established for all forms of motorized vehicles for winter-use, for reasons given in a previous paragraph.

C. Option 1 is the best overall solution, for reasons given in A, above. Length of trail is a factor that should be considered in any environmental review, including winter-use.

D. The Options given do not include a mandatory EAW for an off-highway vehicle recreation area (OHVRA) of any size. I strongly urge the approval of such a mandatory EAW regardless of size for an OHVRA. This kind of proposal would essentially establish a motorized "park," wherein the potential for damage would be extraordinary. Again, numbers delineating miles or acres should be a subject within the EAW.

#### **Mandatory EIS Proposals**

Option 1 is unacceptable.

Option 2 would seem reasonable, but again the numbers data would best be considered in the review. All streams and rivers that would be affected in the proposal should be considered, not just trout streams. Winter use should be included, not excepted.

Option 3. A mandatory EIS should be required for an OHVRA of any size, considering the potential damage and noise that would be generated. It is difficult to imagine setting aside an entire section of land (640 acres) in our state forests for the exclusive use of motorized vehicles; a proposal of such size should not even be considered by the DNR.

#### **Exemption Proposals**

I see no reason for any exemptions from current rules.

Review of new construction or designation of existing trails for recreational use should be applied in accordance with selected mandatory options, above. Most items in the specifics of safety considerations, rerouting, temporary trails, etc, could be part of standard maintenance or be treated in the existing discretionary procedures laid out in current MEQB rules.

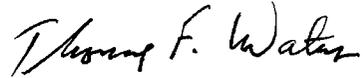
However, emphasis should be placed upon item C, Option 2, that is, no exemptions for motorized proposals of any kind, including winter-use.

I fully realize that reviews of all motorized proposals constitute a huge effort on the part of the DNR. However, maintaining the integrity of Minnesota's natural resources should be the DNR's basic responsibility. Priority should be given to the quality of

our streams and rivers, lakes, wetlands, forests, and wildlife habitat, as well as to ensuring public access to these resources for their safe, enjoyable, and responsible use.

Thank you again for this opportunity.

Sincerely,

A handwritten signature in cursive script that reads "Thomas F. Waters".

Thomas F Waters, President  
Friends of the Snake River

July 6, 2004

Mr. Gregg Downing  
Environmental Quality Board  
300 Centennial Building  
658 Cedar Street  
St. Paul, MN 55155

Re: Recreation Trail Mandatory and Exemption Category Rulemaking

Dear Mr. Downing:

Three Rivers Park District is submitting the following comments on the "Recreational Trail Mandatory and Exemption Category Rulemaking." The comments relate directly to the two pages of options that accompanied your May 20, 2004 memo.

Mandatory EAW Proposals

- A. Option 1: Not in favor of  
Option 2: In favor of, if it includes winter only non-motorized trails as exempt  
Option 3: No comment  
Option 4: No comment
- B. Option 1: No Comment  
Option 2: No Comment  
Option 3: No Comment
- C. Option 1: No Comment  
Option 2: No Comment  
Option 3: No Comment  
Option 4: No Comment  
Option 5: No Comment
- D. Option 1: No Comment  
Option 2: No Comment

Mandatory EIS Proposals

Option 1: In favor of, if non-motorized is added  
Option 2: No Comment  
Option 3: No Comment

Exemption Proposals

A. Option 1: In favor of  
Option 2: In favor of  
Option 3: In favor of  
Option 4: No Comment

B. Option 1: In favor of, if non-motorized is added  
Option 2: In favor of, if non-motorized is added  
Option 3: In favor of, if non-motorized is added

C. Option 1: No Comment  
Option 2: No Comment

Sincerely,



Donald J. DeVeau  
Development Administrator

DJD:fmo

## Gregg Downing

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**From:** Bill Ylatupa [bfylatup@lakenet.com]  
**Sent:** Monday, July 12, 2004 9:03 AM  
**To:** Gregg.Downing@state.mn.us  
**Subject:** Public review draft EAW,EIS

To:  
Greg Downing  
Environmental Quality Board  
#00 Centennial Bldg., 658 Cedar Street  
St. Paul, MN55155

From  
Bill Ylatupa  
Trail Administrator  
Silver Trail Riders  
43 Garden Dr.  
Silver Bay, MN 55614

Email bfylatup@lakenet.com  
Phone 218 226 4608

From what experience I have had with the EIS,s for trails I believe it is a waste of a lot of Government money and time. It is a process that the environmentalist or using to try and destroy our trails. Let the DNR work with the clubs and I do believe that the trail can be done with out hurting the environment.

Mandatory EIS Proposals

I Bill Ylatupa Believe in option 1. No mandatory EISs for any recreational trail projects.

Bill Ylatupa

July 13, 2004

Environmental Quality Board  
300 Centennial Bldg.  
658 Cedar St.  
St. Paul, MN 55155

Dear Mr. Downing,

I would like to comment on the possible amendment to Rules Governing the Environmental Review Program. The evidence that OTVs cause environmental damage is all around us. I see it where I live in Washington County and around our cabin in Kanabec County. Trails become impassible for hiking after OTVs have torn them up.

Recreational trails for OTVs need to be watched and reported when there is environmental damage. OTV trails should never be in an exemption category. They need to be placed in the mandatory EA/W category. They need to be subject to an EIS when necessary.

Please leave the rules as they are.

Sincerely,  
Jane Muelney

## Gregg Downing

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**From:** ddo@mchsi.com  
**Sent:** Wednesday, July 14, 2004 7:55 AM  
**To:** Gregg Downing  
**Subject:** Comments on Mandatory EAW's for OHV's

July 14, 2004

Greg Downing, Minnesota Environmental Quality Board:

Please accept the below comments regarding recreational trail mandatory and exemption categories.

In my opinion this is a no-brainer. At the minimum an EAW should be mandatory for all trails for motorized use and I think they even justify an EIS. In fact, why isn't an EIS done for OHV Trails?

I have first hand seen the destruction these have had within the City of Duluth and Hermantown park areas. Besides the erosion they cause, there are safety and liability issues for others and for the drivers and their passengers as I have seen children as small as 3 years old riding as passengers and not wearing helmets.

The biggest issue is enforcement of state regulations. My other big concern is when riders go off designated trails into surrounding public and even private land. Who is going to enforce these violations?

Their impact on wetlands is well documented and they need to be banned.

It is bad enough the damage that MN residents do to MN land but out of state OHV owners should either be banned from our public areas or charged excessive amounts to recreate in MN.

I would also request that 30 days for a comment period isn't enough and that the state government of MN needs to persuade the state legislature to increase the 30 day comment period for an EAW and EIS to 60 days.

The DNR division of Trails and Waterways needs to be investigated by the state attorney general's office. This division has repeatedly refused to allow public review and public access to its records. It gives thousands of dollars to groups that do not follow state laws and it has slush funds for its administrative staff that has little if any oversight. Their contracting out work to private consultants needs to be reviewed as well.

What this division has done to our natural resources is a travesty. This division has given the entire DNR a bad reputation as being dishonest, secretive and as destroyers of our natural resources.

I have called on the federal government and its agencies - EPA, General Accounting Office, US Fish and Wildlife Service to investigate the MN DNR and its improper handling of public lands, public funds and public trust.

Public review is essential to protect our state's resources from these proposed projects.

So, I want to know the following:

Within 50 feet of all proposed OHV trails has an inventory been done to determine if there are any endangered plants that would be impacted?

Have aerial photo's been taken to determine proximity to residential homes and other trails such as biking and hiking trails?

I would like to request that as part of any EAW for OHV's trails, all residential homes and other trails such as biking and hiking trails and all rivers and their tributaries and wetlands be mapped and clearly outlined within an area of 1/4 mile of the entire proposed trail.

Have any long term studies been done to show how long it takes an area to recover from OHV usage such as wetlands and vegetation? And if not, why haven't there been these studies?

What studies have been done that have tested air pollution and noise pollution surrounding OHV trails? Have air quality tests been conducted on a regular basis within the OHV park in Gilbert and in the surrounding areas outside of the park? If not, then why not?

Every property owner with 1/4 mile of all proposed motorized trails needs to be contacted and notified of the proposed trail and given an opportunity to review the proposed trail. Is this done? Are any property owners notified and so how are they notified?

Since there is only a 30 day comment period I will end my comments and questions as I don't have time to investigate this further and see what is required in other states that we aren't doing in MN.

Sincerely,

Debbie Ortman  
3547 Haines Rd.  
Hermantown, MN 55811



Minnesotans for Responsible Recreation

P.O. Box 111, Duluth, MN 55801

TEL: (218) 740-3175 FAX: (218) 740-3179 EMAIL [info@MnResponsibleRec.org](mailto:info@MnResponsibleRec.org) WEBSITE: [www.MnResponsibleRec.org](http://www.MnResponsibleRec.org)

July 14, 2004

Via E-mail

Greg Downing  
Environmental Quality Board  
300 Centennial Bldg  
658 Cedar Street  
St. Paul, MN 55155

Greg Downing:

Please accept the below comments regarding recreational trail mandatory and exemption categories.

MRR requests that the Minnesota Environmental Quality Board implement rules mandating public and environmental review of ALL PROPOSED ATV, DIRT-BIKE MOTORCYCLE, AND FOUR-WHEEL DRIVE TRUCK TRAILS. Please find attached our October, 2003 comments already provided which we re-submit with the current comments. With every off-highway vehicle project we encounter we are more convinced of the need for mandatory review of ALL projects. We would add to our attached comments that the political sponsorship of these projects and the tendency of both the DNR and local government sponsors to withhold public information and discourage full public participation in project decisions make it necessary for the EQB to mandate review of these projects. Given the difficulty in simply being sufficiently informed of such project proposals and the often last-minute-nature of such information, Minnesotans could easily fail to petition for review of projects in a timely manner and thereby lose such an important opportunity.

While the DNR called for a suspension in 2003 of environmental and public review of OHV projects on state forest land, their promise of effective internal review has not been kept. Our most recent experience in which the DNR has funded a dirt-bike motorcycle/ATV trail twenty feet from the nation's longest bikeway, for which \$7 million has been invested and 100,000 quiet, fresh air, and wildlife viewing seeking bicyclists and hikers are expected this year, only reinforces the urgent need for mandatory review of ALL OHV projects. The agency's oblivious funding of the above described dirt-bike motorcycle trail is evidence of this fact.

Also, please note attached letter sent to you on June 26 briefly reviewing additional DNR history that the agency has actively sought to escape public and environmental review for many years now. We are convinced that the culture of obligation created within the agency, especially the Trails and Waterways Division, by the millions of dollars in motorized recreation gas tax funding that subsidizes the agency, has made it impossible for the DNR to objectively manage or review OHV projects. The concomitant culture of entitlement created by the unrestricted flow of these public funds to snowmobile clubs for decades and now demanded by registered OHV users puts political pressure on the DNR that cries out for public and environmental review to balance these pressures.

MRR has challenged the DNR in court three times seeking public and environmental review because of the poor quality of the agency's proposals and the chaotic nature of the government sponsors and clubs involved in these projects. We believe that left on their own without mandatory review, the DNR, local government sponsors and clubs will do extensive and permanent damage to our state's resources. Only mandatory public input will improve these projects and protect our state's resources. If not for our petition for EAW on the proposed Eveleth-Gilbert ATV/OHM Trail the DNR would not be currently seeking an alternative route away from our nation's longest bikeway. Public review is essential to protect our state's resources from these proposed projects.

Our public lands belong to all citizens, not just those who claim ownership of public motorized recreation gas-tax funds (to which all Minnesotans contribute) and are able to wield the most political power in the legislature and DNR. The suspension of public and environmental review successfully requested by the DNR in 2003 was an entirely political act and demonstrated the extent of the agency's poor quality land management decisions. This decision also violated the very 2003 legislative audit that made public and environmental review its number one recommendation. Since publication of our 1999 report *Off-Highway Vehicles in Minnesota*, MRR has identified public and environmental review of OHV projects as the cornerstone of a quality OHV management system. Without such review MRR will consider all OHV proposals as illegitimate. MRR submits the above comments and resubmits the attached comments in urging the EQB to mandate public and environmental review on ALL ATV, dirt-bike motorcycle, and four-wheel drive truck projects.

Sincerely,

Jeff Brown  
Executive Director



Minnesotans for Responsible Recreation

P.O. Box 111, Duluth, MN 55801

TEL: (218) 740-3175 FAX: (218) 740-3179 EMAIL [info@MnResponsibleRec.org](mailto:info@MnResponsibleRec.org) WEBSITE: [www.MnResponsibleRec.org](http://www.MnResponsibleRec.org)

October 1, 2003

Via Facsimile

Gregg Downing  
Environmental Quality Board  
300 Centennial Building  
658 Cedar Street  
St. Paul, MN 55155

Dear Mr. Dowling;

Please accept the following as public comment on your *Request for Comments on EQB's Possible Adoption of Mandatory Environmental Review and Exemption Categories for Recreational Trails* on behalf of MRR's 700 members. Thank you for agreeing to accept these comments via fax and to accept the below mentioned attachments being mailed to you today into the public record.

Minnesotans for Responsible Recreation, MRR, urges the Minnesota Environmental Quality Board (EQB) to **adopt rules requiring mandatory review of all all-terrain vehicle (ATV), dirt-bike motorcycle, and four-wheel drive truck routes and use areas.** There is substantial evidence regarding the design and use of these off-highway vehicles (OHVs), the political-economic structure of Minnesota's Department of Natural Resources, and the need to preserve the public's singular legal right to review establishment of such routes and use areas which supports the need to adopt mandatory review.

### **SIGNIFICANT ENVIRONMENTAL EFFECTS ARE INHERENT IN THE DESIGN AND INTENDED USE OF OFF-HIGHWAY VEHICLES**

There is substantial and overwhelming evidence that off-highway vehicles by their design and intended use have the potential for significant environmental effects, warranting mandatory public and environmental review of routes and use areas provided for these machines on public lands and/or with public funds. This evidence is extensively reviewed in the following two documents to be attached to these comments for inclusion in the record: MRR's 1999 report, *Off-Highway Vehicles in Minnesota*, and the 2003 Minnesota Office of the Legislative Auditor's *Program Evaluation Report: State-Funded Trails for Motorized Recreation*. Thank you for accepting these "attached" documents, which are being mailed to you today, into the public record.

In brief, ATVs, dirt-bike motorcycles and four-wheel drive trucks are designed to travel great distances across forested lands, streams and wetlands, thus the reference to "off-highway

vehicles”. In doing so they have the potential for significant impacts on vegetation, soils, water, wetlands, fish and wildlife, and air quality. These impacts are reviewed on pages 3 – 13 of the attached report, *Off-Highway Vehicles in Minnesota*. Photographic documentation of these impacts is provided in Appendix B of the report. These machines also have the potential for significant noise impacts which lead to the displacement of those seeking quiet on Minnesota’s public lands, whom, data shows are the vast majority of Minnesotans. A discussion of this data and these impacts is provided on pages 14 – 22 of our report. Please note that prior to publication, the Minnesota Department of Natural Resources (DNR) confirmed the factual accuracy of this report.

Beyond evidence provided in MRR’s report, the need for mandatory environmental review is corroborated in the attached 2003 audit of the DNR’s motorized trail program. On page 30, the report states:

“We believe that OHV trail projects should also be a mandatory category for three reasons. First, many projects in other “linear corridors” such as pipelines, transmission lines, and roads are already mandatory categories. Second, as we discussed earlier in this chapter, in many cases, OHV trails may have the potential for significant environmental impact. Third, OHVs are highly controversial and likely to be then subject of lawsuits as demonstrated by the OHV plans. Minnesota could avoid some future litigation and its associated costs and delays by requiring an EAW up front and making environmental assessment more transparent to the public.”

**There is substantial and overwhelming evidence that proposed OHV routes and use areas require mandatory environmental review.**

### **NEED FOR “CHECKS AND BALANCES”: DNR BIAS REQUIRES ONGOING PUBLIC AND ENVIRONMENTAL REVIEW**

Minnesota’s Department of Natural Resources has well-documented history of favoring the development of OHV access to public land and the needs of users of these machines over the need for environmental review and the needs of non-motorized users.

“The DNR’s effort to plan a statewide OHV trail system has been inadequate... The DNR failed to develop its three planning elements. Specifically, the planning effort lacked (1) detailed information about their community’s recreational needs, (2) a thorough examination to protect the environment, and (3) fiscal information about the cost of developing, administering, maintaining, and enforcing the trail system that was proposed” (*Program Evaluation Report: State-Funded Trails for Motorized Recreation*, page 19).

The audit also finds that the DNR and counties that administer public “grant-in-aid” funds to snowmobile and ATV clubs for trail building, provide little or no oversight as to how these funds are used, often resulting in damage to wetlands and other sensitive areas and encroachment on private property.

“We found 32 cases of trails allegedly being developed or maintained in violation of regulations in the last five years (page 35). ... We found that 39 percent of the files for the traditional snowmobile and OHV grants were missing an up-to-date list of landowners. In addition, we found that just over 60 percent of the grant-in-aid files that we reviewed were missing a map of the trail alignment (page 42). ..DNR and the local government trail sponsors have provided little oversight of the grant-in-aid programs, leaving clubs to largely operate on their own (page 40).”

In recommending reform of DNR policies and practices the audit states:

“DNR should set up a schedule of reductions in future grants for violations of program requirements, including not following federal, state, and local regulations (page 58).”

Most important to note is that **the DNR’s response to audit findings and recommendations has been to avoid reform by actively working to weaken the rules rather than correct problems to meet the standards already provided.** The request to amend the very EQB rules in question by exempting categories of OHV trails was initiated by the DNR’s Deputy Commissioner Holstein in a April 29, 2003 letter to Senator Dallas Sams in order to put the DNR on a fast track of trail development.

Furthermore, it was Commissioner Holstein, according to Representative Alice Hausman, who weakened legislative language to implement the audit recommendation which would hold clubs accountable for their illegal and high-impact trail building. Representative Hausman reports that when, during the final days of the 2003 legislative session, she offered an amendment to the DNR’s finance bill that would have required that “the DNR commissioner must withhold grant-in-aid funds from clubs that violate the terms of their grants or the law”, it was Commissioner Holstein, lobbying others in the hallway, that nullified the meaning and purpose of this amendment by changing the word “must” to “may”.

**That the DNR is compelled to weaken the environmental standards they must follow, and compelled to continue to provide public funds to clubs who violate the terms of their grants and/or the law, is reason alone to preserve the public’s singular right to review and intervene in development of DNR OHV proposals. In the absence of implementation of audit recommendations, mandatory environmental review is irreplaceable.**

### **EXEMPTING OHV PROPOSALS FROM PUBLIC REVIEW WILL DISENFRANCHISE THE PUBLIC WHO CAN NOT BE GUARANTEED EQUAL ACCESS TO DNR DECISION-MAKING**

**Not only has the DNR worked to weaken the standards it must follow but it continues to attempt to insulate itself from genuine public review, making preservation of the public’s singular legal right to call for review essential.** It is MRR’s experience with the DNR that when “backed into a corner” with evidence of the need for reform, rather than respond proactively, the agency changes the jargon it uses and recreates its format for public participation creating endless confusion for those attempting to de-mystify the OHV planning process. In

2000 the DNR opened over 95% of Minnesota's state forests to OHV travel making Minnesota a virtual island of unrestricted OHV use among neighboring states. To assuage public concern the agency labeled this forest classification as "managed" and latter added the phrase "managed use on managed trails". That the DNR has managed neither OHV use or trails was made clear in the recent audit.

Furthermore, while the DNR has recently insisted that it is engaged in in-house reform and involving a greater number of stakeholders, and that the public will be invited to comment on future OHV proposals, this is contradicted by the facts. While MRR has made constant requests over the years to be included in DNR mailings and discussions we are continually in the position of having to request such information upon discovery.

A letter sent to the DNR Commissioner on May 16, 2003 expressing concerns over proposed trail construction in the Finland State Forest, did not receive a response until September 27, 2003 declaring "official opening of the ATV trail". While the agency laid out its plans to develop OHV routes in selected state forests at a September 11, 2003 meeting in Virginia, MRR was neither notified of this meeting nor of the DNR's plans. An August 29, 2003 focus group in which representatives of each of Minnesota's motorized advocacy groups were invited to express what "has and has not worked well for your group and its constituents, and what kinds of program relationships are important to you" excluded MRR and other critical observers of the DNR. (While the DNR invited token participation from a Minnesota nordic ski group, it did not by any stretch of the imagination, provide balanced representation in these feedback sessions.)

**In short, despite years of documenting inadequate DNR policies and practices by MRR and despite a recent legislative audit corroborating these concerns and calling for specific reforms to make the agency "more transparent", it is business as usual in the DNR today. This business as usual calls for the highest level of ongoing public review.**

### **MINNESOTA'S PUBLIC LANDS ARE OWNED BY ALL NOT JUST THOSE WITH "DEDICATED ACCOUNTS"**

**Mandatory public and environmental review of DNR OHV proposals is necessary because the DNR is beholden to the motorized groups it deems as its paying "clients".** Motorized recreation in Minnesota is big business. It is a business that is well subsidized by the public and from which a host of motorized users and public employees draw benefit. **MRR believes it is the collection of public gas-tax funds to subsidize motorized access to public lands which has such a firm hold on the DNR bureaucracy and specifically the Trails and Waterways Division whose mission is to administer these funds.** Millions of dollars in public funds have been deposited in "dedicated accounts" in the Trails and Waterways Division for snowmobiles, ATVs, dirt-bike motorcycles, and four-wheel drive trucks over the past few decades. In 2002, for example approximately a half-million dollars was deposited in a dedicated account for snowmobilers who already enjoyed a 5 million-dollar balance in the Trails and Waterways Division despite the fact that there has been very little snow in recent winters on which to ride a snowmobile. And this while the state was suffering from a \$4.5 billion deficit and essential services were being cut.

It was MRR's interest in "following this money trail" that lead MRR members to call for the 2003 audit of the DNR's motorized trail program. As witnessed in the recent focus group and throughout the state audit, it is the DNR's first priority to serve and take comment from those "clients" with the largest "dedicated" accounts. **Regarding the sacred cow of motorized recreation in Minnesota and the DNR that milks it, there is no separation of church and state.**

A vivid and symbolic example of the DNR's institutionalized lack of objectivity and separation from motorized groups is the DNR truck in the Tower area carrying a dirt-bike motorcycle with a decal prominently displayed on the rear window declaring the driver's membership and support for the All-terrain Vehicle Association of Minnesota.

**Minnesota's public lands are owned by all Minnesotans. They should not be leased or sold to the highest bidder. Every Minnesotan should have a legal right to participate in decisions as to how these lands are used. Given the inherent potential of ATVs, dirt-bike motorcycles, and four-wheel drive trucks to damage these lands and the DNR's ingrown inability to represent the public's interest, it is essential that the public's singular legal right to review DNR OHV proposals be preserved.**

"Off-road vehicles have damaged every kind of ecosystem found in the United States: sand dunes covered with American beach grass on Cape Cod; pine and cypress woodlands in Florida; hardwood forests in Indiana; prairie grasslands in Montana; chaparral and sagebrush hills in Arizona; alpine meadows in Colorado; conifer forests in Washington; arctic tundras in Alaska. In some cases the wound will heal naturally; in others they will not, at least for millennia."

An excerpt from the report *Off-road Vehicles on Public Lands*, by the White House Council on Environmental Quality

Sincerely,

Jeff Brown,  
Executive Director



Minnesotans for Responsible Recreation

P.O. Box 111, Duluth, MN 55801

TEL: (218) 740-3175 FAX: (218) 740-3179 EMAIL [info@MnResponsibleRec.org](mailto:info@MnResponsibleRec.org) WEBSITE: [www.MnResponsibleRec.org](http://www.MnResponsibleRec.org)

June 29, 2004

Via Facsimile and U.S. Mail

Greg Downing  
Environmental Quality Board  
300 Centennial Bldg  
658 Cedar Street  
St. Paul, MN 55155

Greg Downing:

Thank you for taking time to talk with me on the phone this afternoon and for encouraging us to reiterate our concerns in writing regarding assignment of the RGU on our June 17, 2004 petition.

Minnesotans for Responsible Recreation (MRR) objects to assignment of RGU responsibility to the Eveleth-Gilbert ATV/Off-highway Motorcycle Joint Powers Board or to the Minnesota Department of Natural Resources (DNR). We request that the role of RGU be reassigned to St. Louis County.

**Currently the Eveleth-Gilbert ATV/Off-Highway Motorcycle Joint Powers Board has been assigned to be the RGU. We believe this assignment is inappropriate for the following reasons:**

- The DNR has inappropriately allowed the joint powers board to act as both “local government sponsor”/fiscal agent and recipient for approved state trail funds. This presents a conflict of interest discussed in our attached letter to the Minnesota State Auditor’s office.
- The joint powers board was created solely for development of the petitioned project (see attached *Joint Powers Resolution*) and has no higher authority beyond development of the project. The board will grant no permits for the project but is in fact wholly dependent on other entities, mainly St. Louis County, to provide such permits.
- As “project proposer” the joint powers board lacks “separation” or objectivity regarding the proposed project as evidenced by its actions to date. The board has proposed, flagged, and even begun cutting vegetation for an ATV/dirt-bike motorcycle track without written easements from key landowners. The proposed dirt-bike track is flagged 20’ from the paved edge of the Mesabi Trail bikeway, for which a \$7 million investment has been made and 100,000 non-motorized users are expected in the next year. This demonstrates a disregard for potential significant environmental effects on this nearby and valued resource.
- The joint powers board lacks the necessary resources for conducting adequate formal environmental review. While the board has requested and received state trail funds to develop the proposed project it appears to lack the matching funds required for completion of the project, thus a \$35,000 request for matching funds to St. Louis County. If the joint powers board lacks funds to complete the project it likely lacks funds to complete environmental review on the project.

In our phone conversation today you reported that Tom Balcom with the DNR contacted you to request that the DNR be assigned the role of RGU. MRR strongly objects to such a reassignment based on the following reasons:

- What limited authority the DNR has over the proposed project has already been exercised. As stated in the attached grant agreement “The State’s sole responsibility under this Agreement is to provide funds to the local unit of government.” According to Scott Kelling, DNR Trails and Waterways Division, Tower (218-753-6256) funds for the project were already approved as of March 22, 2004. As you noted in our phone conversation, entities that have already made final government decisions regarding a proposed project cannot be assigned the role of RGU.
- In approving funds for the proposed project the DNR has demonstrated a disregard for potential significant environmental effects on “nearby resources”. That the DNR has chosen to put this resource at risk is a violation of the agency’s mandate to protect the state’s resources “unimpaired” for future generations and casts immediate doubt on the DNR’s ability to review potential significant environmental effects on the proposed project.
- In approving funds for the proposed project the DNR has encouraged the very obvious conflicts of interest which a 2003 legislative audit of the DNR’s motorized trail program recommended it avoid. That the DNR has chosen not to implement a single one of the audit’s recommendations again casts immediate doubt on its ability to be an objective reviewer of this or any other motorized recreation project.
- DNR has a long and consistent history of seeking to escape environmental review on off-highway vehicle (OHV) projects.
  - DNR successfully appealed a January, 2002 decision by Cass County District Court which would have required the agency to complete Environmental Assessment Worksheets on projects in its Region 3 Off-Highway Vehicle Plan for north central Minnesota. DNR fought against other attempts by MRR to require the agency to complete such review on OHV plans in other regions.
  - Regarding the Moosewalk/Mooserun ATV Trail in the Finland State Forest, DNR staff completed last minute environmental review reportedly “under the gun from the Commissioner [x-Commissioner Garber]” and did so from a distance relying on information from the Silver Trail Riders Snowmobile Club who had recently caused substantial damage to area wetlands bulldozing trails without permits. During formal environmental review and a period in which all final governmental actions were prohibited, DNR funds were released and construction took place on an ATV trail connecting with what was at the time a proposed Moosewalk/Mooserun ATV Trail. DNR released its EAW on this project during winter holiday, not only making it impossible for citizens to inspect the site under snow and ice but initiating the 30-day comment period when Minnesotans were unavailable to comment. DNR refused to post its EAW on the agency website for comment even though the agency had recently posted much larger Off-highway Vehicle Plan documents, including maps and tables seeking public approval for its OHV trail making plans.
  - Despite a number one recommendation by the 2003 Office of the Legislative Auditor’s *Program Evaluation Report: State Funded Trails for Motorized Recreation* that “Environmental Assessments be prepared for many types of OHV projects”, DNR Deputy Commissioner Mark Holstein lobbied the legislature to successfully “suspend” public and environmental review on DNR OHV projects. Thus, the DNR has succeeded in deleting the public’s one and only legal right to petition for environmental review and challenge DNR OHV projects in court.

**MRR requests that the role of Responsible Governmental Unit on the proposed Eveleth-Gilbert ATV/Off-highway Motorcycle Trail be reassigned to St. Louis County for the following reasons:**

- County is only governmental unit for which remaining approval is required. \$35,000 in county funding is required by the project proposer and has not been approved. Easement across a 40-acre parcel of county-managed tax-forfeit land and easement from the county to cross portions of the existing Mesabi Trail are also required but have not been granted.
- St. Louis County is the single local unit of government that encompasses both the communities of Eveleth and Gilbert involved in the proposed project.
- County appears to have resources to complete environmental review, as it already considering making a \$35,000 grant for the project.
- County will bear burden of mitigating *cumulative impacts* from proposed project. St. Louis County's Sheriff's department, already engaged in extraordinary enforcement efforts to patrol currently designated routes and scramble areas connecting with the proposed project, would bear the bulk of the burden in policing the proposed route. \$18,000 in additional St. Louis County Sheriff staff time to police the existing scramble area in Gilbert and \$8000 to patrol the Mesabi Trail in department have not been successful in protecting the Mesabi Trail or adjacent wetlands or private property.
- St. Louis and Lake Counties Regional Railroad Authority, developer and manager of the \$7 million Mesabi Trail which is 20' away from the proposed dirt-bike motorcycle/ATV track is governed by a board which includes representation from the St. Louis County Board of Commissioners. The greatest concerns of petitioners, in direct response to EAW items regarding "odors, noise, and dust" and "visual impacts" and "nearby resources...in proximity to the site...designated recreation areas and trails" are impacts on the Mesabi Trail bikeway.

Regarding the proposed project for which we have petitioned for completion of an EAW Minnesotans for Responsible Recreation objects to assignment of the role of RGU to the Eveleth-Gilbert ATV/Off-highway Motorcycle Trail Joint Powers Board or the Minnesota Department of Natural Resources. We request the St. Louis County be reassigned the role of RGU on the petitioned project.

Given that decisions regarding MRR's petition for EAW on the proposed project are in limbo, that well defined conflicts of interest could negatively effect that decision from our point-of-view, and that the interests of the residents of St. Louis County and the 55,000 users of the Mesabi Trail are immediately at stake, we request a timely determination by the EQB as to reassignment of the RGU on the proposed project.

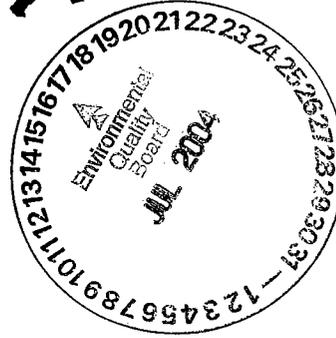
Please call on me at 218-590-6188 if there is any other information I might provide.

Thank you,

Jeff Brown,  
Executive Director

**Attachments**

- June 29, 2004 Letter to Minnesota State Auditor
  - Eveleth-Gilbert ATV/OHM Trail Joint Powers Board Resolution
  - Grant agreement approved by DNR March 22, 2004
- c. Kathy Docter, Special Investigator, Minnesota State Auditor



Office of Planning  
Lynn G. Moratzka, AICP  
Director

July 14, 2004

Dakota County  
Western Service Center  
14955 Galaxie Avenue  
Apple Valley, MN 55124

Mr. Gregg Downing  
Environmental Quality Board  
300 Centennial Building  
658 Cedar Street  
Saint Paul, MN 55155

952.891.7030  
Fax 952.891.7031  
www.co.dakota.mn.us

RE: Proposed rulemaking on mandatory environmental review and exemption categories for recreational trails

Dear Mr. Downing:

This letter is in response to several recently proposed requirements and exemptions for environmental review of recreation trail projects. After staff review of the proposed options, we support the exemption of new and rehabilitated non-motorized recreational trails within the Metropolitan Regional Parks and Open Space System (regional trails) from any mandatory EAW or EIS requirements.

Since many, if not most, of these regional trails are constructed with Federal Highway Administration funding (TEA-21), they are already subject to requirements for natural and cultural resource impact assessment and mitigation. These requirements are directly tied to the funding administration and multi-agency review through MN DOT and the Metropolitan Council. Regional trails must also have a completed master plan to be eligible for funding through the Metropolitan Council. The master plans prepared for regional trails include environmental analyses and undergo public review. Additional environmental reviews as proposed would be duplicative.

Dakota County also constructs non-regional, non-motorized trails (county bikeways), in conjunction with construction and improvement of county roads. Staff therefore also support exemption from separate EAW and EIS reviews for non-motorized recreational trail projects constructed in conjunction with roadways. If such trails are associated with road project requiring and EAW or EIS, the trail will be included in the overall road project review.



Thank you for the opportunity to comment on the proposed rulemaking. Please contact me at 952-891-7033 if you have any questions or would like to discuss these comments.

Sincerely,

A handwritten signature in cursive script that reads "Lynn G. Moratzka".

Lynn G. Moratzka, AICP  
Director  
Dakota County Office of Planning

cc:

Gregory Konat, Director, Dakota County Physical Development Division  
Steve Sullivan, Director, Dakota County Parks Department  
Arne Stefferud, Metropolitan Council Parks and Open Space System



MAILED AND SENT BY FAX

July 16, 2004

Gregg Downing  
Environmental Quality Board  
300 Centennial Building  
658 Cedar Street  
St. Paul, MN 55155

Dear Mr. Downing:

On behalf of the staff and board members of the Friends of the Boundary Waters Wilderness, please accept the following comments regarding the recreational trail rulemaking.

The Friends of the Boundary Waters Wilderness' ("Friends") mission is to protect, preserve, and restore the wilderness character of the Boundary Waters Canoe Area Wilderness and the Quetico-Superior Ecosystem. The Friends, which has 3,000 members, is concerned about this issue because poor planning of recreational trails is detrimental to state and federal lands in Minnesota.

Trails must be reviewed not only for the potential effect on vegetation, soil, and wildlife but also the potential impact from noise and emissions. This review must be done with regard to both current and future conditions of the proposed trail site.

***Mandatory EAW Proposals***

The Friends advocates mandatory Environmental Assessment Worksheets (EAW) for all recreational trails [Section A; Option 1]. This request is reasonable because the impact of off-highway vehicles like ATVs, dirt-bike motorcycles, and 4x4 trucks on the land and water is unparalleled. The weight, power, and acceleration of OHVs damages land more quickly and thoroughly than other trail-based activities like horseback riding, cross-country skiing, and hiking. However, some paved bike paths can be destructive to the adjoining land because of their width and the trees removed to accommodate them. Therefore, all recreational trails should be subject to a mandatory EAW.

The Friends supports a mandatory EAW for winter-only trails [Section B; Option 3]. While the impact of winter activities on the land differs from warmer weather activities, snowmobile trails must be subject to a mandatory EAW. The environmental impact of winter-only activity such as snowmobiling can be profound. The speed, noise, and emissions of these machines can be harmful to animals in the area [Mace, Britton L., Paul A. Bell and Ross J. Loomis, 1999. Aesthetic, Affective, and Cognitive Effects of Noise on Natural Landscape Assessment. *Society*

& *Natural Resources*]. Any proposed construction, realignment, or expansion of a snowmobile trail must be assessed for its effect on the land, particularly animal habitat. The reverberation of a snowmobile must also be taken into account when choosing trails, especially if the motors can be heard in “quiet” areas like the Boundary Waters Canoe Area Wilderness.

New motorized use on an existing trail should also be subject to a mandatory EAW [Section C; Option 1]. Allowing another type of motorized use on an existing trail does not mean the new use is a suitable addition. For instance, some ATV-only trails are not suitable for larger vehicles like 4x4 trucks. While Minnesota law permits the operation of ATVs weighing up to 900 pounds, a 4x4 truck could easily weigh seven times as much and have a far more devastating impact on the land, causing rutting and run-off. Similarly, a trail designated for dirt-bike motorcycles may not be designed for the more mobile and heavier ATV.

Construction or expansion of off-highway vehicle recreation areas on severely degraded land like abandoned mines or tailing piles must also require an EAW [section D]. This provision would apply to recreation areas constructed on public land. So called “scramble” or “challenge” areas endure some of the most intense and prolonged wear from ATVs, dirt-bike motorcycles, and 4x4 trucks. The purpose of these areas is to test the limits of machines, not to provide a venue for leisurely activity like berry picking. And while these areas are relatively isolated from non-motorized users, their implicit competitiveness attracts more users, generates more noise, and offends more hikers or other people who are nearby and engaging in “quiet” activities.

### ***Mandatory EIS Proposals***

There are several conditions under which an Environmental Impact Statement (EIS) should be triggered [Option 2]. Foremost, it would apply to the construction of a new, realigned, or expanded motorized trail that: 1) crosses a trout stream, public water, public wetland; or private waters that flow into public wetlands; 2) passes within 100 feet of any combination of *three* or more trout streams, public waters, or public wetlands; or 3) exceeds a minimum threshold of trail miles in a square mile (amount to be determined). These water bodies (both public and private) are very fragile, serve as habitat for a range of fish and wildlife, and host several other forms of recreation, including “quiet” activities like hunting and fishing. It is critical to protect trout streams because they are particularly sensitive to erosion.

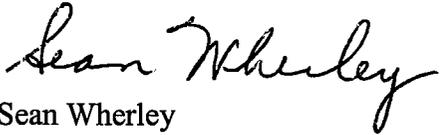
The Friends opposes construction or expansion of public off-highway vehicle recreation areas on any vegetated lands. However, if such areas are being planned then they must be subject to a mandatory EIS [Option 3]. These recreation areas and the adjacent land endure much more harm than land hosting off-highway vehicle trails. Typically, scramble or challenge areas are comprised of enormous piles of logs, rocks, or hills that may result in excessive run-off into adjacent creeks, rivers, ponds, or lakes.

***Exemption Proposals***

The Friends opposes any exemption for motorized recreation trails, regardless of trail type, land ownership, or use. It is conceivable that each proposed trail for ATVs, dirt-bike motorcycles, or 4x4 trucks will have a negative impact on the surrounding area. In the absence of scrutiny required under an EAW or EIS, such impacts could regularly be overlooked or dismissed, intentionally or unintentionally. The harm caused by off-highway vehicles is serious enough to merit such stringent requirements.

Protection of the land, not expediency of creating or altering new trails, must be the paramount concern for the Environmental Quality Board and the Department of Natural Resources. The Friends asks you to consider these comments during your final rule making.

Sincerely,

A handwritten signature in cursive script that reads "Sean Wherley". The signature is written in black ink and is positioned above the typed name.

Sean Wherley  
Communications Director

## Gregg Downing

---

**From:** Jeff Brown [jeff@mnresponsiblerec.org]  
**Sent:** Tuesday, July 13, 2004 1:34 AM  
**To:** Gregg Downing  
**Subject:** Re: EQB staff proposal - comments due 7-16-04

Dear Mr. Downing,

Per our phone conversation, as we are an organization with key interest in public and environmental review of off-highway vehicle projects and as we are just learning of your request for public comment on your staff proposal we request an extension through the end of August to respond to your request. I am leaving town for four weeks and am the person in our office responsible for providing public comment on your proposal.

Thank you in advance for an extension to provide public comment on your staff proposal regarding public and environmental review of OHV projects.

Sincerely,

Jeff Brown  
Executive Director  
218-740-3175

At 02:31 PM 7/6/2004 -0500, you wrote:

>Jeff - as we discussed. I am also faxing same material.

Minnesotans for Responsible Recreation  
P.O. Box 111  
Duluth MN 55801  
Tel: 218-740-3175 Fax:218-740-3179  
www.MnResponsibleRec.org  
jeff@mnresponsiblerec.org  
Expect Peace & Quiet...

## Gregg Downing

---

**From:** Kim Johnson [snakerivermn@yahoo.com]

**Sent:** Sunday, July 18, 2004 10:44 AM

**To:** Gregg.Downing@state.mn.us

**Subject:** Public Review of Draft Category Options

As an owner of two ATVs, I appreciate the utility of these machines, but I'm also aware of the damage that they can do. I've seen first hand where "recreational trails" have been blazed by riders without regard to the impact that their use has done to the area.

I strongly urge that the DNR follow the procedure of conducting EAWs for all motorized trails to determine if EISs are needed.

I support Option 4 in Section A of Mandatory EAW Proposals, Option 3 in Section B and, most importantly, Option 1 in Section C. The opportunity for long-term damage that motorized trails present makes it mandatory that each and every proposal gets adequate study and public comment before implementation. While the DNR needs to have general guidelines on trail development, the unique characteristics of each new trail merit the EAW discipline.

If indicated by the EAW process, EISs should be undertaken for all trails. Option 2 seems to be the best choice. I see no values in gutting the EAW procedure by excluding recreational trail projects. I say do the study and let the chips fall where they may.

Thanks for taking my input.

Kim Johnson  
320-679-0512  
snakerivermn@yahoo.com

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THE LEAGUE  
OF WOMEN VOTERS  
MINNESOTA

550 RICE STREET ST. PAUL, MN 55103 PHONE (651) 224-5445 FAX (651) 290-2145

July 18, 2004

Gregg Downing, Environmental Quality Board  
300 Centennial Building  
658 Cedar Street  
St. Paul, Minnesota 55155

Re: Public review of options for OHV trail development

Dear Mr. Downing:

The League of Women Voters of Minnesota wants to ensure that we promote the protection and wise management of our natural resources by recognizing the interrelationships of air quality, energy, land use, and water resources. This has placed us squarely behind legislative efforts to mitigate, and eventually eliminate, the environmental damage caused by Off Highway Vehicles (OHVs) through strict regulations.

Regarding the Environmental Quality Board (EQB) Staff options on mandatory Environmental Assessment Worksheets (EAWs), the League supports the following:

- A mandatory EAW for all recreational trails (regardless of use, length, location or ownership), except those exempted.
- No separate category for winter-only trails.
- A mandatory EAW prior to the designation of a new motorized use of an existing trail, regardless of length.
- A mandatory EAW prior to construction/expansion of an off-highway vehicle recreation area (OHVRA) of/by any number of acres of land, regardless of the nature or ownership of the land.

Regarding the EQB Staff options on mandatory Environmental Impact Statements (EISs), the League supports:

- A mandatory EIS for the construction of a new or expanded trail for motorized use, except winter-only use, with any miles of new alignment on forested or naturally vegetated land that (1) crosses a trout stream, public water or public wetland; (2) passes within 100 feet of any combination of three or more trout streams, public waters or public wetlands; or (3) would have at least one mile of alignment within a township that currently has no OHV trails.
- A mandatory EIS for construction of an OHVRA on any acres of forested or naturally vegetated public land.

Regarding the EQB Staff options for exemptions from the above requirements, the League supports only one:

- An exemption for the rerouting of less than one continuous mile of trail due to safety

considerations, or to avoid sensitive areas.

The League does not support the other exemptions listed and feels most strongly about the following two:

- No exemptions for construction, expansion, or designation/conversion of motorized uses, except the winter-only exemption above.
- No exemption for reconstruction, rehabilitation or maintenance of existing trails within the existing corridor involving no changes in use.

The League urges the EQB to take a conservative approach as it proceeds with drafting a formal rule proposal this summer. This is the only environment we have. It must be preserved for our children and our grandchildren, and the advent of the OHV has made this significantly more difficult.

Sincerely,

Gwen S. Myers  
Action Committee Co-Chair

Sally D. Sawyer  
Executive Director

**Gregg Downing**

---

**From:** John E. Hunt [jhunt@barr.com]  
**Sent:** Monday, July 19, 2004 1:15 PM  
**To:** Gregg.Downing@state.mn.us  
**Subject:** Comments on Rulemaking Options for Recreational Trails

Mr. Downing:

I have reviewed the May 20, 2004 Draft Category Options for rulemaking associated with recreational trails and have the following comments and questions.

**Mandatory EAW Proposal**

Under "construction of new or expanded trails other than winter-only trails", I don't particularly like any of the 4 options. Option 1 appears to extend the EAW process to any length trail on public or private property, which seems unreasonable to me. Option 2 sets a threshold of 10 miles of continuous or cumulative stretches of trail on public or private land. This seems too high a threshold. A 1 mile trail through sensitive areas could cause more damage than a 10 mile trail down an old logging railroad grade. Option 3 restricts the review process to projects proposed for public land, but retains the unreasonably high threshold. Option 4 is likely not equitable in terms of use. A long non-motorized trail has the potential to fragment habitat as much as a motorized trail. If a fifth option were available, I would write it to read "All recreational trails with at least 1 mile of new alignment on forested or naturally vegetated public land." Does the phrase "naturally vegetated" specifically exclude reclaimed mining areas or tree plantations?

Under "construction of new or expanded winter-only trails", I would suggest Option 3. The 20 mile threshold of Options 1 and 2 seem too high to me, even for winter-only use, and I am under the impression that winter OHV use is limited by depth of snow anyway, so why have a separate category of trail? Is this to also apply to new snowmobile trails?

Under "designation of a new use on an existing trail", I would suggest Option 1. Allowing a new motorized use of an existing trail represents a significant change in the official use and management of a trail corridor, and the potential impacts of that use need to be assessed in advance.

Under "construction or expansion of an OHVRA", I would suggest that the thresholds be lowered to 40 acres for Option 1 and 40/160 acres for Option 2. If lowered, then either option would be fine with me. I personally feel that these types of areas better concentrate OHV use on areas specifically selected and managed for such activities, and therefore reduce the impacts on the linear and loop trail system, and that we should therefore have more of them.

**Mandatory EIS Proposals**

I am inclined to suggest Option 2, but I feel that a 35 mile threshold is much too high. As stated above, a short trail in the wrong location can be far more damaging to the environment than a longer trail in a better location. Perhaps the mileage threshold for a mandatory EIS should be some multiple of the threshold for the Mandatory EAW (i.e. twice or 3 times the length) ?

**Exemption Proposals**

Under "options applying to all types of recreational trails", I would suggest either Options 1 or 2, or both. Option 3 does not adequately define "significant or lasting effects" or what entity makes that determination. Option 4 appears to favor no exemptions for any reasons. If so, this seems unreasonable to me.

Under "options applying to winter-only trails", Options 1 and 3 seem reasonable. The lack of a length threshold in Option 2 makes is somewhat vague to me.

7/19/2004

Under "options applying only to motorized uses", Option 1 does not adequately identify which level of State Forest roads would fall under this exemption. There are multiple classifications of State Forest roads and not all are appropriate for continued motorized use.

Thank you for the opportunity to provide comments on this rulemaking process.

John Hunt  
22302 Cty Rd 5  
Big Lake, MN 55309  
daytime phone: 952-832-2777  
e-mail: [jhunt@barr.com](mailto:jhunt@barr.com)

## Gregg Downing

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**From:** Dustin Young [MinnesotaYoung@comcast.net]  
**Sent:** Monday, July 19, 2004 1:03 PM  
**To:** DNR Gregg Downing  
**Subject:** EQB public review comments.

Gregg,

Attached, please find comments indicating the point of view from the elected board of the All-Terrain Vehicle Association of Minnesota (ATVAM) regarding EQB staff proposed options for recreational trail mandatory & exemption categories.

Also, please note the change in E-mail address from cs.com to comcast.net.

In future emails to the responding group, please also copy [ATVAMoffice@atvam.org](mailto:ATVAMoffice@atvam.org).

Thankyou,

Dustin Young  
ATVAM Director-at-Large  
P.O. Box 557  
Osseo, Mn 55369  
[MinnesotaYoung@comcast.net](mailto:MinnesotaYoung@comcast.net)



**ALL-TERRAIN VEHICLE ASSOCIATION OF MINNESOTA**

Post Office Box 557

Osseo, MN 55369

763-503-1975

1-800-HI-ATVAM

[www.atvam.org](http://www.atvam.org)

July 19th, 2004

TO: Mr. Gregg Downing  
Environmental Quality Board

FROM: Dustin Young  
Director-at-large, All-Terrain Vehicle Association of Minnesota (ATVAM)

RE: Comments on EQB staff proposed options for recreational trail mandatory & exemption categories

Thank you for the opportunity to respond to the proposed options.

To begin let me state that ATVAM would be willing to participate in any advisory committee if the EQB decides one is warranted. We look forward to working with the EQB on this important rule making process.

General Comments

As one of the largest groups representing motorized recreation in Minnesota we believe that the purpose for the EQB rules is truly to protect the environment and not to promote any political agenda. It is important to remember that the best defense to environmental damage due to recreational use is to provide sufficient designated routes, corridors, and areas. This has always proven to be the case. In wilderness areas canoes are portaged on designated portage areas to reduce damage from foot traffic and scarred rocks where aluminum canoes have scraped, literally leaving a shining reminder that someone was there. Camping must be done in designated sites to reduce the amount of foliage that gets trampled by people simply walking around the campsite. State and national parks use trail systems for bicycles and hikers alike to focus the use to specified trails and areas. One only needs to hike or ride a few trails to see that all human activity has an impact on the surrounding environment.

As such, our comments are written with the mindset that the goal is to provide trails for all foreseeable uses so that it is clear, to the users, where they belong and where they don't. We beseech you, and the board, to keep an open mind and avoid being drawn in by rhetoric and politics.

That being said, we support all types of trails on our forestlands, both motorized and non-motorized, and are willing to work cooperatively with all groups in the designation of motorized and non-motorized trails under the Department of Natural Resources.

These rules should only apply to state lands or lands administered by the commissioner of DNR. Lands that should be exempted are private lands, lands purchased by the state using dedicated fund accounts for the specific use, or other public lands (such as city or county owned lands and road right-of-ways).

Specific Comments regarding Mandatory EAW Proposals:

**Section A: Options applying to construction of new or expanded trails other than winter-only trails.**

Option 3 is the closest to acceptable option. The others are either discriminatory or too restrictive and will not promote the designation of trails, which will reduce environmental impact. We recommend the

following changes to option 3. The comment 'regardless of use' should be added, miles should affect only continuous miles (not cumulative miles), and 'public land' should be replaced with 'state owned public land'. So it should read as follows:

*Option 3: All recreational trails (regardless of use) with at least 10 continuous miles of new alignment on forested or naturally vegetated state owned public land (except as exempted) shall require a mandatory EAW.*

**Section B: Options applying to construction or expansion of winter-only trails:**

Option 2 is the most acceptable, but with the same changes as propose to Section A, option 3.

*Option 2: All recreational trails (regardless of use) with at least 20 continuous miles of new alignment on forested or naturally vegetated state owned public land (except as exempted) shall require a mandatory EAW.*

**Section C: Options applying to designation of a new use on an existing trail:**

Option 4 is the most acceptable. However, some additional exemptions should apply. Also, similar changes, as above.

*Option 4: Designation of a more intensive use on at least 25 continuous miles of trail on state owned public land (except as exempted) shall require a mandatory EAW.*

**Section D: Options applying to construction or expansion of an off-highway vehicle recreation area (OHVRA):**

Option 1 is better, Option 2 might be acceptable with some minor changes. For example, if creating an OHVRA on a piece of land that has history of a more intensive use (such as open pit mining, logging or farming) then an exemption should be granted.

*Option 1: Construction/expansion of an OHVRA of/by 80 or more acres of forested or naturally vegetated state owned public land (except as exempted) shall require a mandatory EAW.*

-and/or-

*Option 2: Construction of an OHVRA of 640 or more acres of forested or naturally vegetated land regardless of ownership (except as exempted) shall require a mandatory EAW.*

We also question why there is no section applying to all new or expanded recreation areas, not just OHV recreational areas. If rules are needed for the expansion of OHV recreation areas, then rules are certainly needed to apply to the expansion of any non-motorized recreational areas as well in this process (state park campgrounds, for example).

**Specific Comments regarding Mandatory EIS Proposals:**

Your mandatory EIS proposal singling out motorized recreation misses the point. These rules are supposed to be about environmental protection – yet they appear to be about motorized recreation. Any mandatory EIS rule on recreational trails should apply to all, motorized and non-motorized trails. For example, we were surprised that your options did not include mandatory EIS options on the building of asphalt trails through our forest and near trout streams, public waters or a combination thereof. We have seen first hand what happens to asphalt and other types of trails when they run too close to the rivers and streams. It is not uncommon to see asphalt or other trail building materials washing into the stream or river after the first flood.

Why you single-out motorized recreation and not address these other types of recreational activities near streams, rivers or public waters is unfortunate. If it is not a good practice for motorized recreation to be near or in public waters or sensitive streams, then it is also not a good practice for more intensive non-

motorized recreation (trails) near or in public waters. We fail to see the distinction you put forth in your options presented on this issue.

Option 1 is the most fair.

Option 2 part 1, doesn't make sense so long as it is legal for a fly fisherman to wade through the spawning beds of the very trout streams you are trying to protect. More importantly, as trails are designated, bridges are built over these hyper-sensitive areas. This option appears to single out motorized recreational activity, rather than getting to the heart of the matter, which is the materials used to build the trail.

Option 2 part 2, should apply to all recreational trails, if any. The issue with this would be the water run-off from a trail. An impervious trail, such as asphalt or concrete, would prevent water from absorbing into the ground. Therefore, more rainwater would tend to run off the trail and into the adjacent watershed with that type of trail than from gravel, crushed rock, or a natural dirt trail. Clearly, if this must be included in the rules, the association to the use of the trail must be removed and the materials used to build the trail must be the determining factor. We have seen first hand asphalt hiking and biking trails being swept into the rivers they are located adjacent to. It is the trail that requires the EIS, not the end user.

Option 2 part 3, simply has no merit whatsoever. Also, why do you not address non-motorized recreational areas over 640 acres?

Option 3 was addressed above requiring an EAW. If it is decided that an EIS is required, then we recommend the same exemptions apply as listed before. But option 1 is still preferred.

*Option 1: No mandatory EIS for any recreational trail projects.*

-or-

*Option 2: Construction of a new or expanded trail (regardless of use, except winter only use) with at least 35 miles of new alignment of an impervious surface (such as asphalt or concrete) on forested or naturally vegetated public land that crosses a trout stream, public water or public wetland or will pass within 100 feet of any combination of five or more trout streams, public waters or public wetlands will require an EIS.*

-or-

*Option 3: Construction of an OHVRA of 640 or more acres of forested or naturally vegetated land regardless of ownership (except as exempted) shall require a mandatory EIS.*

### Specific Comments regarding Exemption Proposals:

#### **Section A: Options applying to all types of recreational trails:**

Options 1 and 2 are necessary. It must be possible to quickly relocate or repair a section of trail that is causing a safety hazard or is in a sensitive area, without inundating the process with paperwork.

Option 3 is unnecessary if options 1 and 2 are in place. Trails should be permanently repaired or relocated. The process of a permanent repair or relocation should be fast enough that a temporary trail is not warranted.

Option 4 is unacceptable.

*Option 1: The rerouting of less than one continuous mile of trail due to safety considerations or to avoid sensitive areas shall be exempt from mandatory EAW or EIS.*

-and-

*Option 2: The reconstruction, rehabilitation or maintenance of existing trails within the existing corridor involving no changes in use shall be exempt from mandatory EAW or EIS.*

**Section B: Options applying only to winter-only trails (in addition to ones selected in A):**

Options 1 through 3 are acceptable

**Section C: Options applying only to motorized uses (in addition to options selected in A):**

Option 1 is necessary. State forest roads are already designed for recreational motorized use. If you strap a pair of cross country skis to your car and drive on a state forest road you are there for recreation and using a motorized vehicle for that purpose. So, unless you are going to only allow state employees to drive on forest roads, this exemption must be included.

Option 2 is not acceptable. In addition to the provided exemption options, we recommend the following two exemptions be added.

*Any public land purchased using moneys from the dedicated account of the proposed use shall be exempted from mandatory EAW or EIS if the basis for mandatory EAW or EIS states public land or state owned public land.*

*-and-*

*Lands with a history of a more intensive use than the recreational trail use proposed (such as mining, logging, or a current or abandon roadway) shall be exempt from mandatory EAW or EIS.*

Again, thank you for the opportunity to comment on this important rule making process.

Dustin Young  
Director-At-Large  
ATVAM  
P.O. Box 557  
Osseo, MN 55369  
[MinnesotaYoung@comcast.net](mailto:MinnesotaYoung@comcast.net)  
(763) 226-4731



STATE OF MINNESOTA  
**Office Memorandum**

**Division of Ecological Services**

**DATE:** July 19, 2004

**TO:** Gregg Downing  
Environmental Quality Board

**FROM:** Dennis Thompson, Principal Planner  
Environmental Policy and Review Unit  
Division of Ecological Services

A handwritten signature in black ink, appearing to read "Dennis L. Thompson".

**PHONE:** 651-284-0111

**SUBJECT: Response to Notice for Comments on Options For Mandatory Review and Exemption Categories For Recreational Trails.**

This memo is in response to your May 20, 2004 memo, and the EQB announcement in the June 7, 2004 Environmental Quality Board Monitor.

The MnDNR recommends that it be the RGU for Grant-In-Aid recreational trail projects, and other recreational trail projects that it will be responsible for carrying out.

The DNR finds that the following options are reasonably consistent with our comments submitted to you on March 1 by Brad Moore, MnDNR Assistant Commissioner.

**Mandatory EAW Proposals**

**A. Options applying to construction of new or expanded trails other than winter-only trails:**

Option 2. All recreational trails with at least 10 miles\* of new alignment on forested or naturally vegetated land.

\*Miles could refer to continuous or cumulative stretches of trail.

**B. Options applying to construction or expansion of winter-only trails:**

Option 1. Trails with at least 20 miles\* of new alignment on forested or naturally vegetated land.

\* Miles could refer to continuous or cumulative stretches of trail.

**C. Options applying to designation\* of a new use on an existing trail:**

Option 2. Designation of a new motorized use of at least 25 miles.

\*"Designation" refers to an affirmative act by a unit of government with jurisdiction over a trail to approve or allow specific types of use on the trail; it includes conversion to, or addition of, a new use.

**D. Options applying to construction or expansion of an off-highway vehicle recreation area (OHVRA):**

Option 2. Construction/expansion of an OHVRA of/by 80 or more acres of forested or naturally vegetated public land, or an OHVRA of 640 or more acres regardless of the nature or ownership of the land.

**Mandatory EIS Proposals**

Option 1. No mandatory EISs for any recreational trail projects.

**Exemption Proposals**

**A. Options applying to all types of recreational trails:**

Option 1. The rerouting of less than one continuous mile of trail due to safety considerations, or to avoid sensitive areas.

Option 2. Reconstruction, rehabilitation or maintenance of existing trails within the existing corridor involving no changes in use.

Option 3. Designation of minor, temporary or seasonal trails with no significant or lasting effects.

Option 4. See Option 2 under C below.

**B. Options applying only to winter-only trails (in addition to ones selected in A):**

Option 1. Construction of less than one continuous mile of winter-only trail.

Option 2. Construction or expansion of a winter-only trail across agricultural land.

Option 3. Designation (including conversion) of an existing trail for winter-only use.

**C. Options applying only to motorized uses:**

Option 1. Designation of existing State Forest roads for motorized recreational vehicle use (in addition to those selected in A & B).

**Gregg Downing**

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**From:** AMERICANLANDS [lnorrgard@americanlands.org]  
**Sent:** Monday, July 19, 2004 4:01 PM  
**To:** Gregg Downing  
**Subject:** RECREATIONAL TRAIL MANDATORY AND EXEMPTION CATEGORY RULEMAKING

July 19, 2004

TO: Gregg Downing  
 EQB Environmental Review program staff

SUBJECT: CATEGORY OPTIONS IN RECREATIONAL TRAIL MANDATORY AND EXEMPTION CATEGORY RULEMAKING

I am submitting these comments on behalf of American Lands Alliance. American Lands is a non-profit, grassroots, conservation organization whose mission is to protect biological diversity, promote and protect healthy ecosystems, and preserve and enhance wildlife habitat.

Environmental review for all trail development projects must utilize criteria in system planning guidelines designed to recognize all impacts on natural resources and other forest visitors prior to developing or designating any trail systems.

American Lands is concerned about the amount of construction or reconstruction of roads and trails in an over-fragmented landscape. As we move forward with trail planning I urge you to consider the impacts of further fragmentation of this State for wildlife. To a great extent it is the motorized recreation (Recreational Motor Vehicles or RMVs) that is cause for most of our concerns.

Because the Recreational Motor Vehicle (RMV) use in Minnesota is increasing exponentially in recent years the increase in damage to natural resources, sensitive habitats, and our precious wetlands, streams and lake shores has far reaching impacts to our land based and aquatic wildlife. This use has also caused increased conflicts with quiet use recreation and private landowner trespass. American Lands has concerns with this fast growth, the unregulated usage of the vehicles, and the **cumulative** resource damage that is the result. We need to provide RMV opportunities and other recreational uses while protecting our forest resources.

## **Mandatory EAW Proposals**

### **A. Options applying to construction of new or expanded trails:**

American Lands supports Option 1: All recreational trails (regardless of use, length, location or ownership except those exempted).

We believe as stated above that for wildlife and sensitive habitat reasons all new or reconstructed trails must go through review – our public lands are the last best places for protection of our wildlife resources and over – fragmentation is a concern for many species in decline in Minnesota. The risk is also high that putting a minimum of some mile length invites the misuse of the discretion whereby a project could be considered in smaller consecutive segments broken only by short distances of existing trail. Building in this possibility may risk losing the opportunity to take a careful, cumulative, look at impacts prior to new construction or designation. This is still possible even though the option may refer to continuous or cumulative stretches of trail. We could see for instance a 9.95 mile trail segment which would bypass review.

### **B. Options applying to construction or expansion of winter-only trails:**

American Lands supports Option 3. No separate category for winter only trails – whatever option chosen under A

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above would apply to winter trails also.

“Winter-use” is not well defined and can refer to a specific type of recreation but may refer to a timeframe such as late November/December through February. In this case it is important to require environmental review to assess impacts for seasons that are not fully frozen when the trail can be accessed by ATVs or other recreational motor vehicles that are all season. IF these options were to refer to snowmobile trails and/or cross-country ski trails only (fully winter use needing frozen snow covered ground conditions) it may be possible to consider additional alternatives.

### **C. Options applying to designation\* of a new use on an existing trail:**

American Lands supports Option 1. Designation of a new motorized use regardless of length (except as exempted). The grave concern with this category is the conversion of non-motor trails to motor trails – if this is the possible action that can be taken there must be Review regardless of length of trail segment.

### **D. Options applying to construction or expansion of an off-highway vehicle recreation area (OHVRA):**

**American Lands supports the standing position of the Department of Natural Resources AGAINST OHVRAs on State Forest Lands – there is no option that could be considered acceptable under these conditions. It should also be a policy of the state to continue to protect high quality Minnesota resource lands and consider construction of OHVRAs only where the landscape has already undergone extensive impact due to other causes.**

*IF* State Off-Road Vehicle Account funds were used for the purchase of new lands for an OHVRA American Lands would support a new Option as stated below.

New Option. Construction/expansion of an OHVRA of/by 80 or more acres of already impacted public land or 320 acres of already impacted land regardless of nature of ownership of the land. No construction of an OHVRA will be considered on lands suitable for wildlife and natural resource protection.

### **Mandatory EIS Proposals**

American Lands supports a New Option closely aligned with Option 2 with the changes outlined below:

Option 2: Construction of a new or expanded trail for motorized use, with at least 10 miles of new alignment, continuous or cumulative, on forested or naturally vegetated public land that: (1) crosses a trout stream, public water or public wetland; (2) passes within 100 feet of any combination of five or more trout streams, public waters or public wetlands; or (3) would have at least 3 miles of alignment within a township that currently has no OHV trails.

And Option 3: Although this option is preferable if on already impacted land.

Option 3. Construction of an OHVRA on 640 or more acres of forested or naturally vegetated land regardless of ownership.

### **Exemption Proposals**

#### **A. Options applying to all types of recreational trails:**

American Lands supports the exemptions outlined below – some editing from original list is included. In addition one new exemption is included.

Option 1. The rerouting of less than one continuous mile of trail due to safety considerations, or to avoid sensitive areas.

Option 2. Maintenance of existing trails within the existing corridor involving no changes in use.

Option 3. Designation of minor, temporary or seasonal trails of less than one mile with no significant or lasting effects.

New Option: New construction or designation of trails that are narrow, unpaved, "pathways" for non-motorized travel of less than 10 miles (example; North Country Trail).

Thank you for your thoughtful attention to these important issues that will affect the management and future of our treasured public lands and for the opportunity to comment on these Options.

Sincerely,

Lois Norrgard / Upper Midwest Organizer  
American Lands Alliance  
952-881-7282

## Gregg Downing

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**From:** J & D Bahls [Jerold.O.Bahls-1@tc.umn.edu]  
**Sent:** Monday, July 19, 2004 3:42 PM  
**To:** Gregg.Downing@state.mn.us  
**Subject:** EQB Staff Proposed Options for Recreational Trail Mandatory & Exemption Categories

Mr. Downing

Below are my comments on the EAW and EIS proposals. I have included my selected option and have included my comments (underlined). It is not clear why you are putting this out as a series of options. I hope this is not an election!

Thanks for giving me the opportunity to make my comments,

Jerold O. Bahls  
President  
Audubon Chapter of Minneapolis

### **Mandatory EAW Proposals**

#### **A. Options applying to construction of new or expanded trails other than winter-only trails:**

Option 1. All recreational trails (regardless of use, length, location or ownership), except those exempted. (There is entirely too much damage to the environment from trails both motorized and non-motorized that occurs without having a systematic method of careful review of trail proposals.)

#### **B. Options applying to construction or expansion of winter-only trails:**

Option 3. No separate category for winter only trails – whatever option chosen under A above would apply to winter trails also.

#### **C. Options applying to designation\* of a new use on an existing trail:**

Option 1. Designation of a new motorized use regardless of length (except as exempted). (Motorized use has a significant impact on the environment and needs to be closely reviewed.)

#### **D. Options applying to construction or expansion of an off-highway vehicle recreation area (OHVRA):**

Option 2. Construction/expansion of an OHVRA of/by 80 or more acres of ~~forested or naturally vegetated~~ public land, or an OHVRA of 640 or more acres regardless of the nature or ownership of the land. (Lands should be obtained specifically for use as OHVRA's. Existing public lands should not be used for this purpose. If there is a need for this type of area (and I believe one is badly needed within 50 miles of the Metro area), private investment should lead the way! If there are legal impediments, legislation should be enacted to minimize their concern.)

### **Mandatory EIS Proposals**

Option 2. Construction of a new or expanded trail for motorized use, except winter-only use, ~~with at least 35 miles~~ of new alignment on forested or naturally vegetated public land that: (1) crosses a trout stream, public water or public wetland; (2) passes within 100 feet

of any trout stream (3) passes within 100 feet of any combination of ~~five~~ three or more, public waters or public wetlands; or (3 4) would have at least 3 miles of alignment within a township that currently has no OHV trails. (Because crossing water can be so detrimental to water quality, any proposed trail that crosses public water must have an EIS! A trout stream is far too sensitive to trust the judgment of any motorized trail user without carefully considering the options. Five is too many, 3 would be better.)

## **Exemption Proposals**

### **A. Options applying to all types of recreational trails:**

Option 4. See Option 2 under C below. (Exemption only applies to an EIS not an EAW!)

### **B. Options applying only to winter-only trails (in addition to ones selected in A):**

Option 3. Designation (including conversion) of an existing trail for winter-only use. (Exemption only applies to an EIS not an EAW!)

### **C. Options applying only to motorized uses:**

Option 2. No exemptions for construction, expansion, or designation/conversion of motorized uses, except winter-only use exemptions selected under B. (Exemption only applies to an EIS not an EAW!)

# FACSIMILE COVER PAGE

**TO :** GREGG DOWNING  
**SENT :** 7/19/04 AT 3:06:14 PM  
**SUBJECT :** RECREATIONAL TRAIL RULEMAKING

**FROM :** MASON MYERS  
**PAGES :** 3 (INCLUDING COVER)

**MY COMMENTS ON THE SUBJECT RESPONDING TO YOUR MAY 20 REQUEST FOR COMMENT ARE ENCLOSED.**



Mason C. Myers - 12009 Hilloway Road West - Minnetonka, MN 55305  
July 19, 2004

Mr. Gregg Downing  
Environmental Quality Board  
300 Centennial Building  
658 Cedar Street  
St. Paul, Minnesota 55155

Re: Public Review of Options for OHV Trail Development

Dear Mr. Downing:

Legislative efforts to mitigate, and eventually eliminate, the environmental damage to our public lands caused by Off Highway Vehicles (OHVs) through strict regulations are welcome. My comments on the material you submitted for public review on May 20, 2004, are as follows:

1. Regarding the Environmental Quality Board (EQB) Staff options on mandatory Environmental Assessment Worksheets (EAWs):
  - a. Require a mandatory EAW for all recreational trails (regardless of use, length, location or ownership), except those exempted.
  - b. There should be no separate category for winter-only trails.
  - c. Require a mandatory EAW prior to the designation of a new motorized use of an existing trail, regardless of length.
  - d. Require a mandatory EAW prior to construction/expansion of an off-highway vehicle recreation area (OHVRA) of/by any number of acres of land, regardless of the nature or ownership of the land.
2. Regarding the EQB Staff options on mandatory Environmental Impact Statements (EISs):
  - a. Require a mandatory EIS for the construction of a new or expanded trail for motorized use, except winter-only use, with any miles of new alignment on forested or naturally vegetated land that (1) crosses a trout stream, public water or public wetland; (2) passes within 100 feet of any combination of three or more trout streams, public waters or public wetlands; or (3) would have at least one mile of alignment within a township that currently has no OHV trails.
  - b. Require a mandatory EIS for construction of an OHVRA on any acres of forested or naturally vegetated public land.
3. Regarding the EQB Staff options for exemptions from the above requirements:
  - a. Do not allow an exemption for the rerouting of less than one continuous mile of trail due to safety considerations, or to avoid sensitive areas. (Refer to "Discussion" at the foot of this letter).
  - b. Allow an exemption for the construction of less than one continuous mile of winter-only trail.  
- continues -

EQB comment 7/19/04

4. I do not support other exemptions listed and feel most strongly about the following two:
  - a. Allow no exemptions for construction, expansion, or designation/conversion of motorized uses, except the winter-only exemption above.
  - b. Allow no exemption for reconstruction, rehabilitation or maintenance of existing trails within the existing corridor involving no changes in use.
  
5. Discussion: Allowing exemptions for "minor" construction on sections of trail less than one (1) mile opens the door to construction and trail modification whose only purpose is to tailor the trails to the high speed use of snowmobiles and ATV's. Straightening bends to keep speeders from hitting trees and making cuts to get rid of winding ascents and descents that slow down high speed travel destroy the ambience of the wilderness trail that lures the cyclist and pedestrian to follow it in the first place. I think the guardians of our natural resources are unfairly pressured to deliver the wilderness to the minority of citizens who buy expensive, powerful toys before they know just how they will use them. The mere presence of these powerful things in the wilderness is destructive - of vegetation, soil, streams, wild life habitat and silence. Giving in to the, admittedly, high pressure generated by a few is a disservice to the majority who want the wild character of the wilderness preserved. Recall that a recent survey showed that about 20% of Minnesota citizens wanted ATVs banned outright from State and National Forests and about 50% wanted such use closely controlled. That is about 70% of the citizens. And that is not to say that snowmobiles are harmless. The appearance of an EWS or and EIS is the only notice the public gets that changes to their wilderness are considered, their only opportunity to respond to the pressure of organized, mechanized speed clubs.

Please take a conservative approach as you proceed with drafting a formal rule proposal this summer. This is the only environment we have. It must be preserved for our children and our grandchildren, and the advent of the OHV has made this significantly more difficult.

Very truly yours,

Mason C. Myers

July 19, 2004

**VIA EMAIL AND U.S. MAIL**

Gregg Downing  
Environmental Quality Board  
300 Centennial Building  
658 Cedar Street  
St. Paul, MN 55155  
(651) 205-4660 /296-3698  
gregg.downing@state.mn.us

**Re: MCEA's Comments on Draft Category Options for Recreational Trail  
Mandatory and Exemption Category Rulemaking**

Dear Gregg Downing and Environmental Quality Board:

Thank you for the opportunity to comment on the Environmental Quality Board's (EQB's) proposed preliminary options ("preliminary options") for possible mandatory EAW, EIS, and Exemption categories for recreational trails. I am the forestry advocate and a staff attorney for the Minnesota Center for Environmental Advocacy (MCEA). MCEA is a non-profit environmental organization using law, science, and research to protect Minnesota's natural resources, its wildlife, and the health of its people. MCEA has a history of involvement in recreational trails issues, with a particular focus on motorized trails.

Before addressing the preliminary options, this letter provides some information, for the sake of context, regarding Off-Highway Vehicles (OHVs); the significance of the OHV law passed during recent state legislative sessions; the extent and manner of OHV use; OHVs' social effects and public reaction to them; and OHVs' environmental effects on the state's natural resources.

**I. CONTEXTUAL COMMENTS:**

**The meaning of "OHV"**

The term OHV includes All-Terrain Vehicles (ATVs) (characterized by three to six low pressure floatation tires and a design that requires the rider to straddle the seat); Off-Highway Motorcycles (OHMs); and Off-Road Vehicles (ORVs) (most often 4-wheel-drive trucks, but also encompasses ATVs weighing more than 900 lbs dry weight or having an engine displacement of over 900 cubic centimeters, and other vehicles not classified including those with more than six flotation tires.

### **Minnesota's 2002 and 2003 OHV laws**

The 2002 and 2003 Legislative sessions produced notable OHV legislation. The 2002 law, in pertinent part, banned OHV "cross-country" travel on public lands. Cross-country travel was defined as travel off of any road or trail. "Trail," however, is not well-defined in state law, and according to some can be interpreted very broadly to encompass any linear track that looks like a trail, including perhaps game trails, grown-over ancient skid trails, or even the bent vegetation traces left by a single vehicle recently operated across a formerly trail-less area in violation of the cross-country travel ban. Accordingly, the cross-country travel ban was perceived from the outset by most observers (including DNR Conservation Officers and citizens following the issue) as being relatively inconsequential on its own, for at least two reasons:

- 1) it failed to address the fact that continuing use of existing trails was causing as much (or more) environmental damage and social discord as the creation of new trails through cross-country riding; and
- 2) even with respect to the blazing of renegade trails by cross-country riders, the ban is plagued by the administrative impossibility of being effectively enforced in a management setting in which motorized access routes abound and are liberally distributed so as to reach into nearly every corner of public lands.

A second part of the 2002 OHV law directed the DNR to establish a "Motorized Trail Task Force" with a 6-month mission: make recommendations to the DNR and the Legislature on a number of subjects. That Task Force reported 31 unanimous recommendations, but failed to reach unanimous agreement on any proposed recommendation addressing "natural resource protection concerns" with motorized trails. While a number of the reported recommendations and many of the proposed-but-failed recommendations (those that drew one or more veto votes) were quite good, and have value for policy-makers in MCEA's opinion, the Final Report, in its entirety, was vehemently attacked primarily by motorized interests as a failure when it was delivered in mid-January, 2003. These attacks were leveled against the report in its entirety, including the 31 recommendations that had recently been approved unanimously.

The state of Minnesota passed a more extensive law concerning OHVs in May, 2003. Among other important provisions, it directs the DNR to evaluate and re-classify (with respect to OHV use) all 54 State Forests currently permitting OHV use off of forest roadways. Under the current, outgoing classification scheme, all State Forests are classified as either "managed," "limited," or "closed." Currently, 45 State Forests are "managed," eight are "limited," and four are "closed." State Forests in the "managed" classification permit OHVs to travel on any trail.<sup>1</sup> In State Forests classified as "limited," OHVs may use, and must remain on, trails specifically provided and posted ("designated") by the DNR for them; on "limited" State Forests, all trails are presumed closed to OHVs unless posted open. In State Forests classified as "closed," no designated trails for OHVs are provided and hence no OHV trail riding is permitted, but OHVs may use and must remain on inventoried State Forest roads (unless posted otherwise). As a result of the 2003 OHV law, there will no longer be any forests in the "managed" classification. The DNR has until

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<sup>1</sup> Lack of sufficient law enforcement resources, combined with the broad definition of "trail," has already allowed the proliferation of more than 7,000 miles of user-created, or "renegade," motorized trails on State Forest lands, according to DNR estimates (Statement by Mike Carroll at the April, 2003 meeting of the Minnesota Forest Resources Council). Due to the proliferation of unplanned OHV trails in "managed" State Forests, the term "managed" as a forest classification is generally conceded to be a misnomer.

December 31, 2006 (extendable to December 31, 2008 if request is made to the Legislature by January 1, 2005) to evaluate all State Forests and reclassify them as either “limited” or “closed.”

The scheduled elimination of the “managed” classification, and the movement of all State Forest lands to a management status in which trails are closed unless posted open, constitutes a major change in state policy. The 2003 OHV bill accomplished this change (though many other important provisions that survived intense scrutiny in the Senate were stripped in conference committee), and it was passed over stiff opposition from motorized recreation enthusiasts and the OHV manufacturers. It passed, reversing the previous policy with its emphasis on “managed” State Forests, because of the strength and sustained nature of public outrage. The outrage was and continues to be fed by OHV-caused damage to public resources, disruption to private lives of Minnesotans, and degradation to Minnesota citizens’ outdoor recreation experiences.

The same concerns that prompted Minnesotans to demand governmental action on this issue are directly relevant to the proposed rulemaking now in the hands of the Environmental Quality Board (EQB). Minnesotans are not outraged over hiking trails, ski trails, or kayak and canoe routes, as such. To the extent these and other non-motorized types of recreational trail have drawn public attention in the context of OHVs in the past years, it is only because OHVs have used them illegally, damaged them, and in some cases prevented the rightful non-motorized uses to which those trails are devoted.

#### **Extent and manner of OHV recreational use**

According to DNR figures and the January, 2003 Office of the Legislative Auditor’s Program Evaluation Report titled State-Funded Trails for Motorized Recreation (OLA Report), there were over 180,000 ATVs, 6,300 OHMs, and 1,400 ORVs registered in Minnesota at the end of 2002. OHVs (other than OHMs) used exclusively on private lands need not be registered for public lands use, and so are not counted in these figures. The uses of OHVs on public lands include sport riding, secondary-recreational riding (as in ATV use associated with hunting), and other utilitarian uses.

The great preponderance of OHV riding in Minnesota is ATV riding, and the bulk of all ATV riding is performed by a fairly small minority of Minnesotans. Those who own a registered ATV often own more than one. According to the July, 2001 study prepared for the DNR by John P. Genereux, titled “An OHV Recreation Planning Tool Based on: A Survey of Resource Managers; and A Survey of [OHV] Riders in Minnesota” (DNR’s Genereux Study), “10% of all ATV owners accounted for 57% of all forest riding on ATVs.... In other words, 60% of the riding was being done by 10,000 ATV riders.” Furthermore, “over one-half of the ATVs registered for recreation in Minnesota are not being used in the [public] forests.” “74% of ATV riders own or rent land where they can ride ATVs and other OHVs.” *Id.* at p. 55.

A super-majority (78%) of Minnesota deer hunters do not use an ATV in any way when hunting, according to a January, 2002 report on a survey conducted for the DNR by Responsive Management, titled, “Minnesota Deer Hunters’ Opinions and Attitudes Toward Deer Management” (2002 Deer Hunter Survey), at pp. 15-18. The most common use among those who do use an ATV for hunting use it only for retrieval of harvested game.

According to best information available, therefore, OHV users of Minnesota public lands represent a small subset of the state’s population, yet it is commonly understood that the amount and the severity of the damage they do through their OHV riding activity is entirely out of proportion to their numbers. This incongruity is due in part to the nature of the machines they ride (as will be discussed more extensively, below), but also due to the manner in which they ride.

Some OHV riders are attracted to opportunities to create and drive through mud; to throw dirt, sand, and mud; to climb steep hills; to corner sharply at high rates of speed; to spin their wheels. The stated reason for the attraction of riders to all of these activities is that riders are generally looking for opportunities to “challenge their machines.” The over-arching reason they ride on public lands because they can find those opportunities on the natural landscape. The riders who fit this description are not riding first and foremost to see or appreciate nature, or to maintain the environmental condition of the public lands on which they ride. As put in the DNR’s Genereux Study, “[a]ccording to this survey, riders do neither understand nor appreciate the possible connection between their riding and environmental damage. Respondents think mud, natural water hazards [otherwise known as lakes, rivers, streams, wetlands, and vernal pools], and hill climbs are all appropriate uses in the forest...” *Id.* at p. 25.

It is difficult to know how many OHV riders break the law while riding, and estimates vary widely. Riders will say emphatically but without offering evidence or any substantiating explanation that “just a few” percent, or frequently, “three percent,” of riders are causing all the trouble. There are two problems with this assertion. First, the few people who have claimed to keep any kind of record of the behavior of riders claim the percentage who break the law is much larger. Larry Wannebo, of Crow Wing County, claims to have kept a notebook record on the OHV ditch riders whom he sees near his home, and his numbers show 70% or more of those riding in ditches break at least one law when in plain view. I don’t know what methodology he used or whether it is valid, but at a minimum it is as sound or better information than the conflicting anecdotal claims of riders. Another source of information that could be considered are estimates from Conservation Officers (COs). One such estimate, offered by recently-retired CO Roger Lueth. His April 18, 2003 letter to the Legislature on the OHV problem in Minnesota, as seen from the eyes of a veteran CO, is captivating and highly informative. He estimates the ratio of “irresponsible” to responsible OHV riders is about 75:25, or 75% causing trouble.

One reason for the discrepancy in estimates may be that the riders’ definition of what constitutes “causing trouble” environmentally is not, as the DNR’s Genereux Study shows, very well-informed. It would not be surprising if riders’ ideas of appropriate uses of their machines are defined, largely, by the OHV advertising they see on television. A second reason is that the design of OHVs makes them inherently environmentally destructive in many locations they ride, as is discussed in depth below. Regardless of what exact percentage of riders is breaking the law, the damage they do is exceptionally long-lasting and is severe.

### **Social and environmental effects of OHV recreation**

For the most thorough look at the environmental effects of OHV recreation, you should read the October 3, 2002 DNR document titled, “Assessing the ecological impacts of ATV trail construction and use on public lands: facts to consider and a review of the literature.” This document was prepared by and for the Environmental Review Program in the Ecological Services Division of the Minnesota [DNR], and is the single best and most comprehensive treatment of the subject that is available.<sup>2</sup> MCEA incorporates this document by reference in this comment letter. In addition the following points are important and bear summary treatment here, as well.

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<sup>2</sup> It also contains an extensive bibliography. Copies of nearly every journal article listed in that bibliography have been reproduced and are submitted by MCEA with this comment letter for the EQB’s convenience. Though the EQB rules do not require the EQB to do so, MCEA asks that these materials be retained by EQB after the drafting stage, so that they may be considered as part of MCEA’s eventual formal comment letter at the next stage of the process.

In important ways, no other recreational activity compares to OHV riding. First, no class of recreational activity has ever put as much power at the disposal of the outdoor recreationist as OHV riding. Tractive power and torque are selling points, with manufacturers currently engaged in an “arms race” of sorts, as they compete to make machines faster and more powerful. The consequences of this conferral of mechanical power are demonstrated in manufacturers’ commercials, which typically include images of drivers conquering the natural environment. Accompanying text emphasizes the machines’ power to affect the environment, with examples like, “Rip open the box. Rip up the Dunes” (Bombardier); “Might as well face it, you’re addicted to mud” (Polaris); “The road to heaven is paved in mud” (Yamaha); and “Go anywhere, do anything,” (Jeep). The consequences of OHVs power are also translated on Minnesota’s landscape as environmental destruction: rutted wetlands, churned-up streambeds, sediment-choked spawning gravels in trout streams, eroded hillsides, compacted soil, and vegetation loss. Even when ridden responsibly or at least without intent to cause environmental damage, the sheer power and weight of the machines carry an inherent capacity to cause damage that is unparalleled in the history of outdoor recreation.

A second feature of OHV riding is the fact that it allows its practitioners to travel longer distances and cover larger areas than any other form of outdoor recreation. Ardent hikers might cover 10 miles or more in a day’s effort; ardent canoeists might cover 30 miles or more with substantial effort and under decent conditions. According to the a DNR’s 2001 Genereux report, an average ATVer, by comparison, likes to cover 30 miles of trail riding in just 2 hours’ worth of riding, and an OHMer likes to cover 40 miles in under 2 hours. *Id.* at p. 53. The DNR defines a “rider day,” its unit for measuring volume of motorized recreation, as four hours worth of riding, and so a typical OHV “rider day” amounts to over 60 to 80 miles of riding. And some riders do ride even farther. With the exception of bicycle touring (on roads), no other sport comes close to average travel distances as long as OHV riding.

A third feature of OHVs is the size of the area that they affect on the landscape. This area is not just the 3-to-8-foot wide ribbon of trail over which they roll. More accurately, an OHV has multiple effects on the landscape, and the different effects are felt over different-sized areas. Nearly every effect, however, has a “footprint” on the land that is felt over a larger area than similar effects from other forms of outdoor recreation. Consider some examples:

- *Erosion* - When OHVs ride over steep slopes or weak soils, the affected area can grow over time. At first it may be just the area where surface vegetation is destroyed and the sediment travels. Over time, the disturbed area often grows, spreading down-slope as destabilized soil succumbs to gravity and precipitation; and spreading upslope as erosion below undercuts and causes the collapse of soil upslope. Depending on the relative weakness of the soil and other local site factors, the area affected by an OHV’s passage may spread and grow over time to cover an area much larger than the tracks initially left by the OHV. The erosion effects of OHVs are inherently likely to be several levels of magnitude greater than those of hikers, cyclists, or skiers, for example, because the OHV without the rider typically weighs several hundred pounds (for OHMs), up to 900 lbs (for ATVs), or even several tons (for ORVs); and because that tremendous weight is coupled with powerful engines, aggressively-treaded tires, and a tendency of operators to gun the engines and spin wheels intentionally.
- *Sedimentation* - OHVs operating illegally near or in a stream, river, or lake, stir up or cause the erosion of sediment, and frequently also introduce the seeds of invasive non-native weeds. Sediment and noxious weed seeds can be transported great distances by water. That entire area receiving the sediment and seeds is another area affected by OHVs. The sedimentation effects of OHVs are many levels of magnitude greater than for other forms of non-motorized recreation because hikers and cyclists behave

differently when encountering wetlands, streams, and lakes. Like hikers and cyclists (just to name a few non-motorized forms of recreation), canoeists lack both the power and the inclination to destroy wetlands churn up lakes or streams. Similarly, because hikers, cyclists, and canoeists travel shorter distances and generally avoid becoming mud-caked, their innate capacity to spread the seeds of noxious non-native invasive weed species is lower than that of OHVs.

- *Noise pollution* - OHV noise legally may approach 99 decibels at a distance of 20 inches from the muffler, according to the DNR's 2002-03 Recreational Motor Vehicles Regulations, at p. 13. When revved and running, OHVs can be heard at great distances up to and over two miles. Even if a single OHV can be heard only within a radius of one mile, it still has a "soundshed" – the area where people and wildlife are affected by its noise – of 3.14 square miles (area =  $\pi r^2$ , with the radius = 1 mile). When a single OHV travels 33 miles (the average length of a preferred ride for ATVers and OHMers, according to the DNR's Genereux Study) on a trail, in the course of a 2 or 3-hour ride, it affects all the people and wildlife within an area of 69 square miles (33-mile long x 2-mile wide soundshed, plus a semi-circle on each end with a radius of 1 mile). Hikers, cyclists, canoeists, etc., simply do not generate the sustained high-volume noise of an OHV. A moderately noisy hiker might be heard over a distance of 100 yards at most (if talking exceptionally noisily), and thus the entire area affected on a 10-mile day-long hike would be about 1.15 square miles (600-foot wide x 10-mile long soundshed, plus a semi-circle on each end with a radius of 300 feet), or just 1.7% the area affected by an ATV.
- *Noxious weed spread* - According to a study from the University of Montana Extension Service, an ATV driven through just a few feet of spotted knapweed infestation can pick up 2,000 seeds. When ridden 10 miles, that same ATV was found to retain 200 of those initial 2,000 seeds, meaning that it an ATV serves as a tremendously effective vector for the spread of spotted knapweed. ATVs are highly effective at causing the rapid spread of invasive non-native species' infestations for tens of miles throughout areas that otherwise would receive little traffic and much lower rates of non-native invasive species spread.

In sum, the combination of inherent abilities (to do more damage, travel longer distances, and affect larger areas with their various effects) to disturb people and damage the environment make OHVs the most intrusive and inherently destructive form of outdoor recreation yet. For these reasons, and for all the additional reasons elaborated upon in the DNR document already noted above (Assessing the ecological impacts of ATV trail construction and use on public lands: facts to consider and a review of the literature), OHV recreation projects and decisions deserve the most careful environmental review accorded any form of outdoor recreation.

**The costs of providing, managing, monitoring, maintaining, repairing, and enforcing OHV trails far exceed the costs for other forms of recreation.**

Since the first meetings of the Motorized Trail Task Force, the DNR has received requests to show the costs of building, managing, monitoring, maintaining, repairing, and enforcing OHV trails, and has been largely unable to do so. The best estimate that has ever been provided was for maintenance on a hardened-surface ATV trail in the south-eastern corner of the state. Those figures were provided by the DNR to an individual named Tom McMillan, and showed that yearly maintenance totaled just over \$1,100 per mile of trail. DNR's Trails and Waterways staff has at various times estimated costs at closer to \$50 to \$150/mile, but has not supported these estimates with figures or documentation similar to the documentation showing \$1,100/mile/year.

Other forms of recreational trails do not require such enormous investments in maintenance. Nor do other forms of recreational trails carry the enforcement costs of motorized trails. The full

monetary costs of enforcing rules on public land dictating where OHVs can and cannot travel are probably an order of magnitude greater than what is currently being spent. Right or wrong, OHV representatives and others have said, in so many words, that the state will never be able to afford to pay for enforcement at levels sufficient to achieve compliance with the law. Failure to enforce rules governing OHV riding carries still greater costs, of course, measured in environmental damage, reduced quality of life and quality of recreational experience for other citizens, and the monetary costs associated with repairing damage after the fact, and with lost tourism and other economic activity as a result of visitors' bad experiences in an area due to OHV recreation. In other words, when those monetary costs are not met, the costs are exported – or as economists say, “externalized” – onto the environment and people of the state. If there has been any research in this area, it has not been publicized, but to illustrate the point that OHV recreation carries economic costs in the form of foregone economic benefits, consider this conclusion from a report by the New Jersey State Comparative Risk Project, at p. 154: “Motorized vehicles are considered a nuisance by non-users, and jet ski noise drives away significant numbers of tourists, costing an estimated \$1 billion in lost revenue nationally.”

Recreational trails that cater to less destructive activities carry monitoring, maintenance, repair, and enforcement costs that are just a fraction of those for OHV trails. Monitoring need not be as frequent because the trails withstand the lighter impact of lighter forms of recreation for longer periods of time. Less wear and tear per unit time translates into much lower maintenance and repair costs. And other forms of recreational trail use, unlike OHV riding, are far more likely to stay on the trails provided, resulting in far less damage off-trail, and thus far lower costs to repair illegal off-trail traffic.

The costs of OHV recreation are likely to become, if they are not already, out of control. The state, in an attempt to satisfy OHV riders, is taking on OHV recreation-related obligations bearing monetary costs that it claims it cannot afford, and that it does not intend to meet. To avoid environmental destruction on public lands, resources must be made available and spent at levels that make it possible to have effective maintenance, repair, and enforcement.

MCEA recommends that the EQB attempt to address, in the upcoming rulemaking, the true hard costs of trail proposals. The basis and justification for taking such a strategy is the fact that a well-monitored and maintained trail with effective levels of enforcement is likely to have very different environmental and social effects than a trail proposed in a time and place when there are already insufficient resources for monitoring, maintenance, and enforcement. This approach would consider factors such as the miles of trail proposed by a given trail project (motorized or non-motorized), and the total miles already in the area and in the state; the existing enforcement, monitoring, maintenance, and repair costs already being borne by the state, and the deficits or unmet demand for such each (measured by the frequency of monitoring, the amount of deferred maintenance and repair, and the amount of additional enforcement estimated required to achieve effective compliance); and the additional anticipated costs associated with the new proposal.

Costs should be calculated both with and without assuming in-kind maintenance and monitoring work conducted by local clubs. The experience with snowmobile trails is that clubs do back out of commitments to monitor and maintain trails, may perform inadequate work, and may even violate federal and state law while doing their work (*see* May 17, 2002 letter from Cass County Environmental Services Wetland Act Administrator to the U.S. Army Corps of Engineers, attached). In addition, the 2003 OHV law directs the DNR to enter into *informal* agreements with motorized clubs. These informal agreements cannot be counted on to provide problem-free continuous and effective service to the state; and thus trail projects will always necessitate DNR expenditures at some level to monitor, or step in and conduct (or undo) work done by private

clubs and individuals. Accordingly, grant-in-aid trails require the same environmental review as DNR-designed and built trails.

**II. COMMENTS RESPONSIVE TO THE TOPICS SPECIFICALLY IDENTIFIED IN THE REQUEST FOR COMMENTS:**

➤ **Types of recreational trails that should receive mandatory EAWs, mandatory EISs, and exemptions**

All recreational trail types are not the same. Proper motorized recreational trails are strikingly different from non-motorized trails in nearly every element of design, construction, maintenance, repair, and enforcement, as well as in the severity of their environmental and social effects in the areas they traverse. Because even short motorized trails may result in substantial damage to the areas for miles around the trail proper, and for all the particular reasons offered above in this comment letter, MCEA recommends that all types of motorized trail traversing public lands receive mandatory EAWs. The documentation submitted with this comment letter, and particularly DNR documents, identify the vast differences between motorized and non-motorized trails, and contain more than sufficient evidence to support MCEA's position. If thresholds for mandatory EAWs and EISs are proposed, they should be proposed and enumerated separately and specifically for each type of trail, whether motorized or non-motorized.

Exemptions from environmental review are not proper for any kind of recreational trail, because trails of all types are varied in the types of terrain and habitat they cross, and also because even trails administratively intended only for non-motorized use may be used regularly and illegally by OHVs. MCEA has documented such illegal use to be common on the North Shore State Trail, the North Country National Scenic Hiking Trail, and numerous hunter-walking trails around the state. Illegal use is reasonably predictable based on past experience, and thus it cannot be ignored as a factor that should be considered when trails of any kind are proposed. Because the prospect for illegal use and the potential magnitude of environmental and socioeconomic damage vary from location to location, it does not make sense to exempt any trail type from environmental review.

Specifically, the following exemption categories that MCEA anticipates may be suggested, are inappropriate:

- 1) exemptions based on a trail's current status as a legally-ridden trail for OHVs. The more than 7,000 miles of renegade trails now in existence on State Forest lands are responsible for the environmental damage and social strife in Minnesota that necessitates a rulemaking. Exempting these same trails from environmental review would be antithetical to the underlying enterprise;
- 2) exemptions based on the pre-existence of a trail or travel corridor (e.g., a snowmobile or hiking trail now proposed to be designated for ATV use), even though that trail or travel corridor is not currently open to the OHV now proposed to use it. Foot trails and winter-use/frozen condition trails have very different environmental and social effects. In some circumstances, it is clear that a trail would do less damage if relocated away from existing corridors, so it would be illogical and unworkable to establish exemption categories on this basis;
- 3) exemptions based on whether the trail follows a road way. Environmental effects scale with levels and type of usage. A forest road with a low level of usage has different environmental and social effects than a forest road that receives 50,000 OHV rider-days of use per year, as was projected to be the case with the White Earth State Forest ATV/OHM Trail. Furthermore, because OHVs are far more likely (than a Honda Civic or a hiker) to go off the road into sensitive areas, the area through which a road passes

might militate for environmental review, thus making location on a road a poor basis for establishing an exemption category for OHV trails; and

- 4) exemptions based on an arbitrary number acres that would be consumed by the trail. Such an exemption assumes the only area affected by a trail is the physical space occupied by the trail tread, or the grade, or the area brushed out around the trail. As has been discussed above, and as is thoroughly addressed in attached documents, the effects of a trail extend far beyond the tread, grade, and cleared area occupied by a trail, and thus these measurements are not rational bases for determining that a trail would not have potential for significant impact.

➤ Types of trail that could be grouped together due to similar environmental impacts

The following criteria can help bifurcate trail types into distinct groups. These groups should be considered separately:

- 1) motorized trails and non-motorized trails (this distinction is essential);
- 2) non-frozen and frozen condition trails,
- 3) steep terrain and level trails,
- 4) upland and wetland trails, and
- 5) trails on strong soils and weak/easily-eroded-soils.

➤ Criteria or parameters the EQB should use to establish thresholds for review and exemption categories

The following are potential criteria for use in establishing thresholds for review:

- 1) presence of natural resources seen elsewhere to have been damaged by OHV use (legal or illegal);
- 2) presence nearby of natural resources found likely to be damaged, taking into account the ubiquity of law-breaking, etc.;
- 3) presence of conflicting human recreational and residential uses;
- 4) relative costs of monitoring, maintaining, repairing, and enforcing trails, based on type, location, sight distances, etc;
- 5) certainty of availability of resources (personnel time and funding) for monitoring, maintaining, repairing, and enforcing uses of the trail (necessitated by both legal and illegal riding).

➤ Specific proposals for mandatory EAW, mandatory EIS, and exemption categories

Roads greater than 1 mile in length and pipelines greater than .75 miles require a mandatory EAW. Non-OHV road vehicles (the typical Ford Taurus or Honda accord), and non-motorized trail users do not, as a general rule, go off-road/off-trail intentionally because there is no urge, incentive, or engineering capability on the part of the vehicles or their operators to do so. OHVs, on the other hand, have demonstrated a tendency to leave roads and trails (including posted non-motorized trails) and are far more prone to go into surrounding sensitive areas. It would be a mistake not to account for this fact of OHV management. Setting environmental review triggers equivalent to those afforded to roads and pipelines would not address this fact of OHV management. Accordingly, recreational trails going through natural and environmentally sensitive areas should be subject to stronger triggering mechanisms than those afforded roads and pipelines.

An EIS should be mandatory when a trail is proposed within an area of public land that does not contain any forest roads or non-frozen trails, or when a trail is proposed within the boundary of protected wetlands or within an appropriate buffer area surrounding types 3 through 8 wetlands, or when a motorized trail is proposed within a linear distance of 2 miles from the boundary of any state or federal park, wilderness area, or Potential Candidate Wild and Scenic River, or within

one-half mile of any trout stream or tributary, Waterfowl Respite Lake, or designated non-motorized area.

➤ Recommendations on Public Meetings

Hold meetings in all parts of the state, making sure to include areas with high-value environmental and recreation resources; areas with existing designated trails for both non-motorized and motorized uses that are subject to illegal motorized use, and areas with environmental damage.

➤ Recommendations on Advisory Committee:

To be helpful, the Advisory Committee should include retired personnel from the DNR, particularly COs, who have shown a willingness to speak out about the challenges inherent in managing OHV recreation. The more the Advisory Committee is populated with outspoken and seasoned retired staff, the more effective and helpful it will be in an advisory capacity. The purpose of an Advisory Committee is not to represent all comers. Select people who are respected, experienced, innovative thinkers, and who speak plainly even when saying potentially unpopular things. Besides retired DNR personnel, consider retired personnel from other agencies; current DNR and other agency employees; nearby residents active in past recreation issues; and citizens who participate in a variety of forms of recreation.

➤ Sources of information helpful to the EQB in developing categories

MCEA has attached a CD-ROM containing hundreds of photographs taken from more than a dozen OHV club web sites, to demonstrate the types of activities these clubs engage in. Please first review the text file included on this CD-ROM. Attached, as well, are the following documents that may be helpful sources of information:

Creel, S., Fox, J. E., Hardy, A., Sands, J. Garrott, B., and Peterson, R. O. 2001. Snowmobile Activity and Glucocorticoid Stress Responses in Wolves and Elk. *Conservation Biology* ():809-814.

4/18/2003 Letter from Roger Lueth to Legislature on OHVs

Genereux, J. P. 2001. An OHV Recreation Planning Tool Based on: A Survey of Resource Managers; and A Survey of [OHV] Riders in Minnesota

Minnesota Department of Natural Resources. October 3, 2002. Assessing the ecological impacts of ATV trail construction and use on public lands: facts to consider and a review of the literature. [Document located at back tab of MCEA's comments submission, with the documents cited in the document's bibliography]

Motorized Trail Task Force Report to the Minnesota State Legislature and the Minnesota Department of Natural Resources. January 14, 2003.

National Oceanographic and Atmospheric Administration Coastal Services Center web publication titled Coastal Recreation and Tourism, at [www://www.csc.noaa.gov/techniques/recreation/user\\_conflict.html](http://www.csc.noaa.gov/techniques/recreation/user_conflict.html)

Final Report of the New Jersey State Comparative Risk Project, page 154.

January, 2003 Office of the Legislative Auditor's Program Evaluation Report titled State-Funded Trails for Motorized Recreation.

5/17/2002 Letter from John Sumption of the Cass County Environmental Services Office to the U.S. Army Corps of Engineers

Taylor, R. B. The Effects of Off-Road Vehicles on Ecosystems. Texas Parks and Wildlife

Texas Living Waters Project. Impacts of Off Road Vehicles on State-Owned Riverbeds and Banks. Issue Paper #2.

Texas Chapter of the American Fisheries Society. Off-Road Vehicles and Their Impact on Stream Environments: A Policy Statement. January, 2002.

3/7/2002 Texas Parks and Wildlife. Office Memorandum (Subject: Comments on Off-Road Vehicles for Rivers Task Force).

2002-03 Recreational Motor Vehicle Regulations. Minnesota Department of Natural Resources.

Please also find and consider the following documents listed in the bibliography of the Minnesota DNR document, "Assessing the ecological impacts of ATV trail construction and use on public lands: facts to consider and a review of the literature":

Ambuel, B.A. and S.A. Temple. 1983. Area-dependent changes in the bird communities and vegetation of southern Wisconsin forests. *Ecology* 64:1057-1068.

Brown, M. and J.J. Dinsmore. 1986. Implications of marsh size and isolation for marsh bird management. *J. Wildl. Mgmt.* 50:392-397.

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### **III. COMMENTS RESPONSIVE TO THE EQB STAFF'S PROPOSED OPTIONS:**

#### **➤ Mandatory EAW Proposals**

##### **A. Options applying to the construction of new or expanded trails other than winter-only trails.**

MCEA supports Option 4. All motorized recreational trails, except those falling into a few, narrow exemption categories, should be subject to mandatory review through an EAW, at least. Trails planned for motorized use will certainly be sources of the environmental and social effects discussed in depth above, and these effects must be understood, considered, and made public. Mandatory EAWs will do that. Of course, some non-motorized trails certainly merit review, as well, and so non-motorized trails should continue to be subject to discretionary review.

Option 1 casts a wide net, which would presumably then require writing a number of detailed exemptions tailored to permit narrow, non-motorized, unpaved trails, and trails in urban areas, proceed without environmental review, so long as they don't cross or abut ecologically valuable and sensitive sites. This approach might be more effective than Option 4 in ensuring that environmental review is conducted on proposals that merit close review. If EQB staff determines this to be the case, then MCEA would support Option 1 as an alternative to Option 4.

MCEA opposes Option 2. First, it would be easily evaded and therefore hollow as a category. This is true because there are so many miles of existing unplanned and undesignated trails (a.k.a. "ghost," "user-created," or "renegade" trails), that segments of new trail alignment more than a mile or so long would seldom be needed.<sup>3</sup> Yet with several such small stretches of new alignment, very long and environmentally significant trails could be created by stitching together some among the vast number of unplanned trails already on the ground. In other words, even a small amount of new alignment would allow designation of very large stretches of OHV trail. This basic flaw in Option 2, fatal even assuming the miles threshold is cumulative, would be exacerbated if the miles figures were for "continuous" stretches of trail. Incorporating such a mileage threshold would encourage large numbers of 7-, 8-, and 9-mile trails.

Second, even small amounts of new alignment can change the type and amount of use on a trail drastically, particularly when designation will certainly be followed by energetic promotion and marketing, to increase rider-ship.

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<sup>3</sup> MCEA staff and interns have personally bicycled, walked, or ATVed designated and undesignated trails across Minnesota. I attest based on substantial field experience that it is exceedingly rare to travel more than a few miles on some existing alignment without intersecting another "trail," forest road, or other route across the landscape. The photographic and GPS data documenting this survey work can be presented upon request.

Third, new trail alignments 9.9 miles in length could and almost certainly would cross multiple sensitive resources. Examples abound, and are too numerous to provide a respectable sampling in list form, but consider that alignments 9.9 miles or shorter could cross more than a dozen different designated trout streams and tributaries.

Fourth, many trails supposed to be separate are in fact pieces of an interconnecting trail network. This option would allow certain trails to be added to, beneath the 10-mile threshold, at the same time ostensibly separate trails were also being expanded.

MCEA opposes Option 3 for all the same reasons given for Option 2, above, regardless of whether the mileage threshold is “cumulative” or “continuous.” In addition, in the case of mileage threshold being considered “continuous,” in many parts of the state, fragmented ownership patterns, many trails could be designed specifically to cross private lands frequently, thereby providing another avenue for evading the mileage threshold.

MCEA proposes that additional mandatory EAW categories be created for trails crossing public land that involve: a paved trail treadway; engineering that includes significant grading or earth moving; and trails wide enough to permit ready motorized trespass by ORVs and ATVs.

**B. Options applying to the construction of winter-only trails.**

MCEA opposes Option 1 for reasons provided in comments at A. 2, above.

MCEA opposes Option 2 for reasons provided in comments at A. 2 and 3, above.

MCEA favors Option 3. Currently even the premier designated non-motorized trails in the state are regularly subject to motorized trespass and the damage that goes with it (*see* map titled “ATV Damage on Chippewa National Forest...,” included in the packet of accompanying documents; note the yellow data points). Similar illegal use occurs on trails designated for winter-only motorized use, and evidence of summer motorized trespass on such trails has been documented as recently as 7/18/04. Photographic and GPS data documenting evidence of illegal summer motorized trespass is available upon request. For this reason, the options recommended under A, above, should apply to trails intended for winter-only motorized traffic, as well.

**C. Options applying to designation of a new use on an existing trail.**

MCEA supports Option 1 for all the reasons addressed above.

MCEA opposes Option 2 for all the foregoing reasons, including comments made at A. 2, above.

MCEA opposes Option 3 in the absence of Option 1, because of the mileage threshold figure, and for reasons including comments made at A. 2, above. MCEA can support Option 3 if it is proposed in addition to selection of Option 1. A “more intensive use should be defined as one which significantly increases the likelihood or severity of any of the types of damage to forest resources discussed above.

MCEA opposes Option 4 for all the foregoing reasons, including comments made at A. 2 and 3, above.

MCEA opposes Option 5, unless it is understood that the trail alignment, grade, and width will not, under any circumstances, be changed to allow for higher travel speeds so often desired by snowmobilers. When snowmobile travel is permitted on a narrow, curving, or high-relief trail, it

seems there is, sooner or later, pressure to widen, grade (sometimes in conjunction with blasting), and re-align the trail to allow much higher rates of travel than required for the existing use. Such changes are often incompatible with the quality of experience sought by people using the trail under current conditions.

**D. Options applying to construction or expansion of an off-highway vehicle recreation area (OHVRA).**

First, it is necessary to say that it is continuing policy of the DNR not to site OHVRAs and other types of challenge areas on forested or naturally vegetated public land, such as state forests. MCEA supports maintaining that policy, and opposes establishment of a mandatory EAW category for forested or naturally vegetated public land if to do so suggests openness to any contemplation of a weakening of that policy. MCEA supports the purchase of severely degraded lands (such as gravel pits, strip-mined sites, and quarries), using OHV funds, for purposes of establishing OHVRAs.

That said, MCEA opposes Option 1 because it applies to forested or naturally vegetated public land, and even very small OHVRAs can have enormous for all the reasons addressed above. The OHVRA that lead to the current DNR policy against such uses of state forest land was much smaller than 80 acres. If state policy with respect to OHVRAs were to change, however, then an OHVRA of any size, on anything but severely degraded lands purchased using OHV funds, should draw a mandatory EAW.

MCEA recommends that Option 2 be amended to read: "Construction/expansion of an OHVRA of 320 or more acres on severely degraded public land purchased for the purpose of building an OHVRA; or, for an OHVRA located on private land, construction/expansion of an OHVRA of 80 or more acres of forested or naturally vegetated land, or 320 acres of severely degraded land,"

➤ Mandatory EIS Proposals

MCEA is opposed to Option 1.

MCEA supports Option 2, with changes as suggested:

"Construction or a new or expanded trail for motorized use, except winter-only use, on forested or naturally vegetated public land that:

- (1) crosses a trout stream, public water, or wetland;
- (2) passes within 150 feet or, if sight distances are longer, within eyesight (in any season), of any combination of five or more trout streams, public waters, or wetlands;
- (3) would have alignment within a township that currently has no OHV trails."

With the caveats noted above, MCEA could support Option 3 with changes as suggested:

"Construction of an OHVRA on 320 or more acres of forested or naturally vegetated land, or an OHVRA of any size on forested or naturally vegetated public land."

➤ Exemption Proposals

MCEA recommends that the EQB include a separate exemption category for non-motorized uses. Exemptions should accommodate narrow, non-paved, non-motorized trails (paths) like the North Country National Scenic Trail, and non-motorized, paved and/or wider trails in urban or metropolitan areas, so long as they don't cross sites mapped as outstanding biodiversity significance sites, or pass within some reasonable buffer intended to protect high-value areas such as natural heritage database sites, sites mapped by the County Biological Survey as being sites of

outstanding biodiversity significance, Scientific and Natural Areas, Wildlife Management Areas, Aquatic Management Areas, etc.

**A. Options applying to all types of recreational trails.**

Many of these options would be acceptable if applied to non-motorized uses and unpaved trails. That said, MCEA supports Option 1, even for motorized uses, to address sensitive areas concerns, and also supports it to address safety concerns unless simply posting a speed limit would suffice.

MCEA supports Option 2 for both motorized and non-motorized uses if guidance clarifies that this does not reconstruction, rehabilitation, and maintenance of a trail does not include “upgrading” it over the original characteristics as a designated motorized trail. For example, see above in discussion of winter-only trails, at discussion of frequent requests to widen, grade, and realign trail segments to allow higher volumes or speeds of use.

MCEA supports Option 3 for non-motorized use only, because it appears to presume the conclusion that there can be motorized trails with no significant or lasting effects, in the real world environment, which is characterized by inadequate and ineffective enforcement, monitoring, maintenance, and repair of trails.

Absent the guidance and caveats mentioned above, MCEA supports Option 4.

**B. Options applying only to winter-only trails:**

MCEA opposes Option 1 for motorized uses, and supports narrow trails for non-motorized uses. Inadequate and ineffective enforcement, monitoring, maintenance, and repair of trails means that even a 1-mile stretch of trail intended for winter-only motorized use can conceivably be the source of significant environmental effects.

MCEA supports Option 2.

MCEA opposes Option 3 for motorized uses, because of changes that are frequently sought in snowmobile trail alignments, grading, and width to accommodate increased rates of speed; and because the change in use and the changes in trail alignments, grading, and width can lead to unintended negative effects on non-motorized users of winter trails.

**C. Options applying only to motorized uses.**

For all the reasons detailed above, MCEA opposes Option 1, and supports Option 2 (absent the caveats and hoped-for guidance noted in A, immediately above).

This completes MCEA’s submission of comments on the EQB staff-proposed options for recreational trail rulemaking. If you have any questions, please do not hesitate to contact me.

Sincerely,

Matthew Norton

## Gregg Downing

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**From:** Umphress, Karen [kfitterer@opticalsolutions.com]  
**Sent:** Wednesday, May 26, 2004 7:05 AM  
**To:** Diana Telschow; Gregg.Downing@state.mn.us  
**Subject:** RE: Trails

Gregg Downing –

I should not be surprised that every category listed has an option to be only used for motorized recreation, but I am. I just do not understand why the fallacy that making asphalt roller blade or bicycling trails is so much better for the environment, than for making dirt bike trails. While it is true that dirt bikes have motors and make noise, the amount of impact that is done while creating the trail is very minimal. There are a few places that you could go and look at areas where some new dirt bike trail has been cut. One of these is the Gilbert OHV Park. While I admit that we cut down some trees to make the trail, the majority of these are cut down with a brush cutter. The biggest diameter of the trees that were cut down was about 6 and required a chain saw. Any trees bigger than that, we went around. That is it; now you have a trail. There are no bull dozers or any other type of machinery other than the brush cutter and the chain saw. Yet your options listed contain rules that would make an EAW mandatory for that kind of trail development, but bulldozing a straight line through whatever was in the path and then pouring asphalt on to the ground would not require an EAW. I just can't see where this makes sense.

I thought the purpose of this was to help protect the environment.

The best and most fair way of organizing this is to have the rules be based on the type of construction done regardless of the use. Without that type of protection you will continue to have environmental damage to our state.

Thank you for your time.

Karen Umphress

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**From:** Diana Telschow [mailto:Diana.Telschow@state.mn.us]  
**Sent:** Friday, May 21, 2004 7:48 AM  
**To:** le.campbell1@juno.com; Minnesotayoung@cs.com; harvnel@msn.com; maertens@paulbunyan.net; kfitterer@opticalsolutions.com; Ken.R.Fastner@seagate.com; wannebo@uslink.net; mnorton@mncenter.org; lnorrgard@americanlands.org; lnorrgard@americanlands.org; cmhovde@gloria.cord.edu; Ray Bohn (Raybohnmg@aol.com); sean@friends-bwca.org; sharonstephens@earthlink.net; TUmphress@benchmarklearning.com  
**Subject:** Trails

May 20, 2004

TO: PERSONS INTERESTED IN RECREATIONAL TRAIL MANDATORY AND  
EXEMPTION CATEGORY RULEMAKING

FROM: Gregg Downing  
EQB Environmental Review program staff

SUBJECT: PUBLIC REVIEW OF DRAFT CATEGORY OPTIONS

The EQB staff has developed the accompanying preliminary options for possible mandatory EAW, EIS, and Exemption categories for recreational trails. The ideas for these options came from the public comments received in response to EQB's solicitation of ideas published in July 2003. These preliminary category options were presented to the EQB Board at its May

8/11/2004